

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE April 4, 2006	(3) CONTACT/PHONE Steven McMasters, Senior Planner (805) 781-5096	
(4) SUBJECT Continued hearing to consider an appeal by Mission Gardens Estates of the Planning Commission's approval of a request by Mission Gardens Estates for a Vesting Tentative Tract Map and Conditional Use Permit for Tract 2527 to subdivide three existing parcels totaling 50.55 acres into: 59 residential parcels, one buildable open space parcel, one non-buildable open space parcel and a remainder lot. The project is within the Residential Single Family land use category and is located approximately 480 feet south of 11 th St., east of and adjacent to the Union Pacific Railroad tracks, in the community of San Miguel. The site is in the Salinas River planning area. Supervisorial District 1			
(5) SUMMARY OF REQUEST This is a continued hearing on the Mission Gardens Estates project. At the February 7, 2006 Board of Supervisors Meeting, the Board held a hearing and received public testimony on the Mission Gardens Estates project appeal. Cultural resource impacts was the focus of the hearing. Supervisor Ovitt made a tentative motion to partially uphold the appeal and proposed a revised condition. The action on this condition and the project was continued to allow Counsel and staff to review the specific wording of the motion and the condition.			
(6) RECOMMENDED ACTION Complete deliberation regarding the appeal of the Mission Gardens project and: <ol style="list-style-type: none"> 1. Modify Vesting Tentative Tract Map (Tract 2527) Condition 46(c) and Conditional Use Permit Condition 25(c) per February 7, 2006 tentative motion or as further modified per today's hearing; 2. Certify the proposed Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.; 3. Adopt the resolution partially affirming the decision of the Planning Commission approving Vesting Tentative Tract Map (Tract 2527) and Conditional Use Permit based on the findings listed in Exhibits A and C and the conditions listed in Exhibits B and D as modified per today's hearing. 			
(7) FUNDING SOURCE(S) Existing Budget	(8) CURRENT YEAR COST N/A	(9) ANNUAL COST N/A	(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Public Works, San Miguel Community Services District, APCD, California Department of Fish & Game			
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____			
(13) SUPERVISOR DISTRICT(S) <input checked="" type="checkbox"/> 1st, 2nd, 3rd, 4th, 5th, All		(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A	
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est 60 minutes) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)		(16) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A	
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(19) ADMINISTRATIVE OFFICE REVIEW <div style="text-align: right; font-family: cursive; font-size: 1.2em;"> OK Leslie Brown C-5 (4.4.06) </div>			



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: STEVEN McMASTERS, SENIOR PLANNER

VIA: ELLEN CARROLL, ENVIRONMENTAL COORDINATOR *Ellen*

DATE: APRIL 4, 2006

SUBJECT: CONTINUED HEARING TO CONSIDER AN APPEAL BY MISSION GARDENS ESTATES OF THE PLANNING COMMISSION'S APPROVAL OF A REQUEST BY MISSION GARDENS ESTATES FOR A VESTING TENTATIVE TRACT MAP AND CONDITIONAL USE PERMIT FOR TRACT 2527 (SUPERVISORIAL DISTRICT #1)

RECOMMENDATION

Complete deliberation regarding the appeal of the Mission Gardens project and:

1. Modify Vesting Tentative Tract Map (Tract 2527) Condition 46(c) and Conditional Use Permit Condition 25(c) per February 7, 2006 tentative motion or as further modified per today's hearing;
2. Certify the proposed Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.
3. Adopt the resolution partially affirming the decision of the Planning Commission approving Vesting Tentative Tract Map (Tract 2527) and Conditional Use Permit based on the findings listed in Exhibits A and C and the conditions listed in Exhibits B and D as modified per today's hearing.

SUMMARY

This is a continued hearing on the Mission Gardens Estates project. At the February 7, 2006 Board of Supervisors Meeting, the Board held a hearing and received public testimony on the Mission Gardens Estates project appeal. Cultural resource impacts was the focus of the hearing. Mitigation options that involved geophysical techniques such as ground penetrating radar and resistivity were discussed. This technology, if allowed by the owner of the adjacent affected property (Diocese of Monterey), could be part of a mitigation package along with traditional archaeological testing (excavation) that could achieve mitigation for substantially less cost than excavation alone.

Supervisor Ovitt made a tentative motion to partially uphold the appeal and proposed a revised Tract Condition 46 (c). The action on this condition and the project was continued to allow Counsel and staff to review the specific wording of the motion and the condition. Staff and Counsel have reviewed the condition language and have included some minor revisions to clarify the intent and specifics of the condition.

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DISCUSSION

During Summer 2003, the project site along with adjacent properties not owned by the applicant were illegally graded in anticipation of the proposed subdivision. The properties contained significant Mission era resources associated with Mission San Miguel that were seriously impacted by the illegal grading. An EIR was prepared to address these impacts, along with impacts resulting from the proposed project and mitigation measures were developed. These measures were included in the conditions of approval that were adopted by the Planning Commission on November 10, 2005. The applicant filed an appeal of that action due to the cost of the mitigation for impacts to cultural resources.

At the February 7, 2006 Board of Supervisors Meeting, the Board received public testimony on the appeal and staff introduced, a mitigation option that involved geophysical techniques such as ground penetrating radar and resistivity. This technology, if allowed by the owner of the adjacent affected property (Diocese of Monterey), could be part of a mitigation package along with traditional archaeological testing (excavation) that could achieve mitigation for substantially less cost than excavation alone. Staff distributed a revised Condition 46(c), that would allow for the creation of a mitigation fund if the affected site is not available for additional mitigation, and an option to use geophysical testing (if the site is accessible) as part of a mitigation package along with excavation and/or a mitigation fund. The proposed language included a reduction in the cost of the mitigation if geophysical testing is implemented.

At the February 7, 2006 hearing, Supervisor Ovitt made a motion to partially uphold the appeal and proposed a revised Condition 46 (c). This proposed condition would limit the total amount of mitigation required of the applicant and it specified the total amount of credit (\$70,000) for past archaeological activities the applicant would receive. With this credit, the condition would require an additional \$155,000 in mitigation, or compensation for the impacts to the remains of the Mission era Native American quarters on the Diocese's property. The action on this condition and the project was continued to allow Counsel and staff to review the specific wording of the motion and condition. Staff and Counsel have reviewed the condition language and have included some minor revisions to clarify the intent and specifics of the condition. Supervisor Ovitt's proposed condition, with recommended revisions is included as Attachment 1. Attachment 2 is the previous condition that provided for the use of geophysical testing.

Tract Condition 46(c) is repeated in the accompanying Conditional Use Permit (CUP) Condition 25(c). Any changes to Tract Condition 46(c) should also be made to CUP Condition 25(c).

OTHER AGENCY INVOLVEMENT

County Counsel reviewed the resolution, findings and staff report as to form and legal effect.

FINANCIAL CONSIDERATIONS

The appeal was processed using the appeal fee collected.

RESULTS

Denial of the appeal and upholding the Planning Commission's action on the Vesting Tentative Tract Map 2527 and Conditional Use Permit would allow the project to develop as approved and conditioned by the Planning Commission. Upholding, or partially upholding the appeal would

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allow the applicant to develop the project under the revised conditions of approval identified by the Board.

ATTACHMENTS and EXHIBITS

1. Attachment 1 - Revised condition 46 (c) per Feb. 7, 2006 tentative motion
2. Attachment 2 – Previous condition 46(c) that allowed for use of geophysical testing
3. Resolution
4. Exhibit A – Findings for Tract 2527
5. Exhibit B – Conditions of Approval for Tract 2527
6. Exhibit C – Findings for Conditional Use Permit / Tract 2527
7. Exhibit D - Conditions of Approval for Conditional Use Permit / Tract 2527
8. Exhibit E – CEQA Findings

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ATTACHMENT 1

Condition 46(c)4

Develop a comprehensive mitigation package to compensate for the impacts that occurred due to unauthorized grading of the Diocese properties. The mitigation package shall include the use of geophysical testing (with the permission of the Diocese of Monterey) to map and study the remaining portions of the Native American quarters, and create a fund to pay for future studies or projects related to Native American resources associated with Mission San Miguel. This fund shall be held in trust by the California Mission Studies Association, California Missions Foundation or a comparable non-profit organization as approved by the County. The total of the mitigation package shall ~~not exceed~~equal 25% of the cost of ~~the a "100 % sample" mitigation package equivalent~~ that includes geophysical testing and evaluation. The cost of ~~that 25% mitigation package~~ is calculated at \$225,000 for which a credit of \$70,000 be awarded to the applicant for prior archeological work. ~~Preference to~~Use of the funds shall pay for geophysical testing (if allowed by the Diocese) with the balance used shall be given to studies or resources related to Native American culture at the Mission San Miguel.

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ATTACHMENT 2

CONDITION 46 (C)

e-1. Develop estimates for the cost of archaeologically excavating the impacted area of 31 Native American rooms (equaling approximately 1,054 square meters) on the Diocese property as an offset for the impact that occurred due to the illegalunauthorized grading of the Diocese properties and the project site. The total estimated volume of material destroyed and subject to mitigation is approximately 105.4 cubic meters. A payment program shall be developed-instituted, phased with the development of the tract, that provides for the equivalent of excavation of 100% of the disturbed volume. Monies shall be paid by the project applicant with credit f in the amount of \$35,000 for funds utilized for prior testing during the EIR evaluation. Credit shall not be given for those studies that evaluated resources or impacts on the project site (TR2527). These funds shall be held in trust by the California Mission Studies Association, California Missions Foundation or a comparable non-profit organization to be used for historical or archaeological studies, or restoration activities (no more than 50%) of resources or sites associated with San Miguel Mission. Preference of use of the funds shall be given to studies or resources related to Native American culture at the Mission. The program, payment phasing and fund administering organization shall be approved by the County of San Luis Obispo in consultation with the State of California, Office of Historic Preservation and representatives of the Salinan Tribe.

OR

2. If access to the property containing the remains of the Native American quarters is granted, Develop a comprehensive mitigation package shall be developed to compensate for the impacts that occurred due to the illegalunauthorized grading of the Diocese properties. The mitigation package shall include (with the permission of the Diocese of Monterey): the use of geophysical testing (with the permission of the Diocese of Monterey) to map and study the remaining portions of the Native American quarters, and test excavations in areas that will provide information on the resources associated with the Native American quarters as approved by the Environmental Coordinator. Any remaining funds not utilized for geophysical testing or test excavations shall be held in trust and used and administered as indicated in 46(c)(1) above., and possible creation of a fund to pay for future studies or projects related to Native American resources associated with Mission San Miguel. The total cost of the mitigation package shall not exceedequal 45—50% of the cost of the archaeological excavation of 100% of the disturbed volume with credit for past testing as indicated in 46(c)(1) above. Any fund that is created for studies or restoration activities shall be administered as noted in 46(c)(1).

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION MODIFYING THE DECISION OF THE PLANNING
COMMISSION AND CONDITIONALLY APPROVING
THE APPLICATION OF MISSION GARDEN ESTATES, INC.
FOR CONDITIONAL USE PERMIT S030011U AND
FOR A VESTING TENTATIVE TRACT MAP FOR TRACT 2527

The following resolution is now offered and read:

WHEREAS, on November 10, 2005, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and conditionally approved the application of Mission Garden Estates, Inc. for Conditional Use Permit S030011U and for a vesting tentative tract map for Tract 2527; and

WHEREAS, Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. have appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 21 and Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 7, 2006, and the matter was continued to and determination and decision was made on April 4, 2006; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and



WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be upheld in part and the decision of the Planning Commission should be modified subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A, Exhibit C, and Exhibit E attached hereto and incorporated by reference herein as though set forth in full.
3. That the Final Environmental Impact Report prepared for this project is hereby certified as complete and adequate and having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the Board of Supervisors certifies that it has reviewed and considered the information contained in the Final Environmental Impact Report together with all comments received during the public review process prior to approving the project.
5. That the Board of Supervisors certifies that the Final Environmental Impact Report reflects the County's independent judgment and analysis.
6. That the appeal filed by Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. is hereby upheld in part and the decision of the Planning Commission is modified and that the application of Mission Garden Estates, Inc. for Conditional Use Permit S030011U is hereby approved subject to the conditions of approval set forth in Exhibit D attached hereto and incorporated by reference herein as though set forth in full.
7. That the appeal filed by Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. is hereby upheld in part and the decision of the Planning Commission is modified and that the application of Mission Garden Estates, Inc. for a vesting tentative tract map for Tract 2527 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by

Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted.

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

Dated: MARCH 20, 2006

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____, County Clerk and ex-officio Clerk
of the Board of Supervisors, in and for the County of San Luis Obispo, State of
California, do hereby certify the foregoing to be a full, true and correct copy of an order
made by the Board of Supervisors, as the same appears spread upon their minute
book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of
_____, 20 ____.

County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: _____
Deputy Clerk.

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**TRACT 2527 / S030011U
FINDINGS - EXHIBIT A**

Environmental Determination

- A. Certify the proposed Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq.
- B. Adopt the findings of the proposed Final Environmental Impact Report which finds that there is evidence that the project may have a significant effect on the environment, and therefore a Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) Mitigation measures were identified to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology & soils, hazards/hazardous materials, noise, population/housing, public services, recreation, traffic/circulation, water, wastewater, and land use & planning. Significant and unavoidable impacts to cultural resources were identified.

Tentative Map

- C. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner with the Residential Single Family land use category.
- D. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.
- E. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans because the required improvements will be completed consistent with county ordinance and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.
- F. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of single-family residences.
- G. The site is physically suitable for the proposed density of the development proposed because the site can adequately support 60 primary dwellings.
- H. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the applicant is not developing on the open space parcel that contains the riparian vegetation and will mitigate the impact to the San Joaquin kit fox.
- I. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- J. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

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- K. The development will not create significant adverse effects on the natural features of the site or vicinity will preserve and protect such features through the site design, because the river bank and associated riparian vegetation is located in the non-buildable open space parcel.
- L. Natural features and topography have been considered in the design and location of all proposed physical improvements because the riverbank and associated riparian vegetation is located in the non-buildable open space parcel.
- M. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because a qualified archeologist and Native American will be on site for all grading.
- N. The site design and development cannot be feasible changed to avoid intrusion into or disturbance of archaeological resources. Illegal grading has occurred on the site that has already resulted in a significant impact to archaeological resources. Mitigation has been applied to the project to the maximum extent feasible. Construction will use appropriate methods to protect the integrity of the site. Such methods include a qualified archeologist and Native American will be on site for all grading in sensitive areas, if archeological resources are found work shall stop immediately and the County Environmental department will be contacted right a way.

Adjustments

- O. That there special circumstances or conditions affecting the subdivision because the developable area of the property is limited by the Flood Hazard designation and the need for a "buffer" area around the cultural resource site on the adjacent property requiring some proposed parcels to have a reduced lot width.
- P. That the granting of the adjustment will not have a material adverse effect upon the health or safety of persons residing or working in the neighborhood of the subdivision because the reduced lot widths are generally in character with the other lots in the proposed subdivision.
- Q. That the granting of the adjustment will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood of the subdivision because the reduced lot widths will be in character with the balance of the subdivision.

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**TRACT 2527 / S030011U
CONDITIONS - EXHIBIT B**

Approved Project

1. A Vesting Tract Map to allow a cluster subdivision to subdivide three existing parcels totaling 50.55 acres into: 58 residential parcels ranging from 5,360 square feet to 12,500 square feet, one residential parcel of 4.75 acres, one 11.16 acre open space parcel with a 6,000 square foot building envelope, for the purpose of sale and/or development, and one non-buildable open space parcel of 20.22 acres and a 2.43 acre remainder lot.

Condition Compliance/ Mitigation Monitoring

2. **Prior to recordation of the final map**, the applicant shall provide funding for the County of San Luis Obispo to retain an environmental monitor to ensure compliance with County Conditions of Approval and EIR mitigation measures. The monitor shall assist the County in condition compliance and mitigation monitoring for all stage of the project development including review of tract improvement plans, monitoring during tract improvements, and review and development of subsequent residential development. The monitor will prepare a working monitoring plan that reflects the County-approved environmental mitigation measures/ conditions of approval. This plan will include (1) goals, responsibilities, authorities, and procedures for verifying compliance with environmental mitigations; (2) lines of communication and reporting methods; (3) daily and weekly reporting of compliance; (4) construction crew training regarding environmental sensitivities; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. The environmental monitor shall be under contract to the County of San Luis Obispo. Costs of the monitor and any county administrative fees, shall be paid for by the applicant.

Access and Improvements

3. All on-site streets shall be constructed to an A-2 section within a 50 foot dedicated right- of-way with 5 foot sidewalks.
4.
 - a. a road constructed to an A-1 (rural) section within a minimum 40 ft. dedicated right-of-way, minimum paved width 18 feet, from the property to 11th Street, and continuing along 11th Street to N Street.
 - b. A road constructed to an A-7(c) (gravel) section within a minimum 25 – foot emergency access easement, minimum improved width 18 feet, across lot 60 to County road 26, and continuing along County Road 26 to Mission Street. The design of this road shall comply with all requirements of the National Flood Insurance Program.
5. The applicant shall offer for dedication to the public by certificate on the map or by separate document:
 - a. A 20-foot radius property line return at the intersection of all streets
 - b. A 40 ft. wide dedicated right of way across lot 1 between adjacent parcels APN 021-355-003 and 021-241-021
 - c. A 25-foot wide public access trail easement through the length of Lot 61 along the Salinas River shall be reviewed and approved by County Parks

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prior to the recordation of the final map or approval of improvement plans (whichever occurs first). The proposed trail easement shall be located and configured to avoid existing vegetation including cottonwoods and willows, and result in a minimal amount of soil disturbance.

6. Private easements to be reserved on the map including:
 - a. A 25-foot emergency access easement across lot 60 to County Road 26.
 - b. A 25-foot access easement across the proposed remainder parcel from adjacent parcel APN 021-355-003 to County Road 26.
 - c. A 15-foot access easement across lot 13 to the "open space" portion of lot 1.
7. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

Improvement Plans

8. At the time of application for tract improvements, a detailed geotechnical (soils engineering) investigation shall be performed in conjunction with the preparation of detailed project design plans. This investigation shall include recommendations for site preparation, grading and soil compaction as well as for other geotechnical aspects of the project including, but not limited to, liquefaction, seismically-induced or differential settlement, subsidence and expansive soils. This investigation shall provide feasible engineering or design solutions to these or any other potential geologic constraints. These measures will conform to requirements of the Uniform Building Code, the California Code of Regulations and applicable County ordinances.
9. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works and the County Environmental Health Department for approval. The plan is to include:
 - a. Street plan and profile.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Water plan (County Health).
 - d. Sewer plan (County Health).
 - e. Grading and erosion control plan for subdivision related improvement locations.
 - f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.
10. **Prior to recordation of the final map**, all improvement plans shall be reviewed by the San Miguel Community Services District in order to insure that building materials, alarm systems, emergency vehicle access (turning radii, roadway grades), water storage, hydrant location(s) and brush clearance provide adequate fire protection for the proposed project. All water mains and fire hydrants shall provide required fire flows and shall be constructed in accordance with the specifications of the San Miguel Community Services District or other applicable standards.

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11. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
12. The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions, and the approved improvement plans. All public improvements shall be completed **prior to recordation of the final map.**
13. If environmental permits from the Army Corps of Engineers or the California Department of Fish and Game are required for any public improvements that are to be maintained by the County, the applicant or his engineer, prior to the approval of the plans by the Department of Public Works shall:
 - a. Submit a copy of all such permits to the Department of Public Works; OR
 - b. Document that the regulatory agencies have determined that said permit is no longer required.
 - c. Submit verification that San Joaquin kit fox impact fee and mitigation measure have been completed.

Drainage

14. Submit complete drainage calculations to the Department of Public Works for review and approval.
15. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

Utilities

16. All utilities including electric and telephone lines shall be installed underground.
17. Cable T.V. conduits shall be installed in the street.
18. Gas lines shall be installed.
19. Construction plans will be provided to applicable telecommunications companies as they become available in order to facilitate engineering, design and construction of improvements necessary to provide communication systems to the proposed project.

Design

20. The applicant shall apply to the Department of Planning and Building for approval of new street names **prior to the filing of the final parcel or tract map.** Approved street names shall be shown on the tract map and on improvement plans.

Fees

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21. **Prior to recordation of final map**, the applicant shall pay all applicable Quimby and Building Division Fees.
22. **Prior to final map recordation**, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

Services

23. **Prior to final map recordation**, the applicant shall obtain a final will-serve letter for water, and sewage service from the San Miguel Community Services District.
24. **Prior to final map recordation**, the applicant shall submit a full-size copy of proposed plans to the County Department of Environmental Health for review and approval. The plans shall include all facilities including drainage systems, sewer lines, and water wells.

Open Space Easement

25. **Prior to final map recordation**, an open space easement(s) shall be recorded for the open space parcels and other open space areas and for the following: Lot 1 (a) the entire area of the bluff slope between the eastern boundary of the Diocese parcel and (b) a "buffer" area bordering the northern boundary of the Diocese parcel extending out 100 feet from the northern boundary of the Diocese parcel, between the railroad right of way and the bluff slope; Remainder Parcel (a) a "buffer" area bordering the southern boundary of the Diocese parcel extending out 100 feet from the southern boundary of the Diocese parcel, between the railroad right of way and the bluff slope. It is to be held in one of the following ways: single ownership, in common by the Homeowner's Association, or transferred to a public trustee conservancy agency approved by the Department of Planning and Building. The "buffer" areas on the north and south of the Diocese parcel shall remain in open space unless it is demonstrated by subsequent archaeological testing to the satisfaction of the Environmental Coordinator, that intact cultural resources will not be affected by a reduction or elimination of the buffer areas. The other open areas are to be maintained as such in perpetuity.

Aesthetics

26. **Prior to approval of tract improvement plans**, the applicant shall submit landscape, landscape lighting, landscape irrigation and landscape maintenance plans and specifications for all common areas within the project to the Department of Building and Planning for review and approval. Proposed landscaping shall be selected and installed with the intent of obscuring building forms and masses within five years.
27. **Prior to approval of tract improvement plans**, the applicant shall provide a street lighting plan if required by another agency. The plan shall include the height, location and intensity of all street lighting. All light fixtures shall be shielded so that neither the lamp nor the reflective interior surface is visible from adjacent areas. All light poles, fixtures and hoods shall be dark (non-reflective) colored. Street lighting shall be shielded so as not to create glare when viewed from the off-site areas with lighting heights no more than is absolutely necessary.

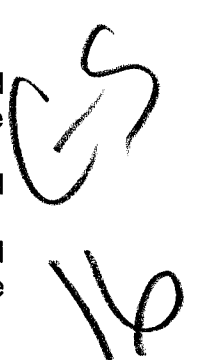
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The light poles and fixtures shall not be visible to travelers along Mission Street. Energy conserving street lighting shall be used.

Agriculture

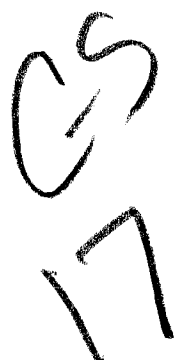
28. **Prior to approval of tract improvement plans**, detailed plans shall be submitted to the County of San Luis Obispo delineating the location and type of fencing or other solid, uninterrupted barrier along the southern boundary of the developed portion of the site in order to prevent direct access from the site to agricultural uses to the south.

Air Quality

29. **Prior to approval of tract improvement plans**, a comprehensive Construction Activity Management Plan shall be developed to minimize the amount of large construction equipment operating during any given time period.
30. **Prior to approval of tract improvement plans**, the applicant shall submit a geologic evaluation of naturally occurring asbestos on the project site to the Air Pollution Control District. If naturally occurring asbestos is present onsite, the applicant shall comply with all requirements outlined in the Asbestos Airborne Toxic Control Measures (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations. These requirements may include, but are not limited to: 1) an Asbestos Dust Mitigation Plan that shall be approved by the APCD prior to construction, and 2) an Asbestos Health and Safety Program. If the applicant has any questions regarding these requirements, they shall contact Ms. Karen Brooks, APCD at 781-5912.
31. **Prior to approval of tract improvement plans**, plans shall show the following dust control measures. During construction/ground disturbing activities, the applicant shall implement the measures as shown on the plans. These measures shall be shown on tract improvement, grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to commencement of construction.
- a. Reduce the amount of disturbed area where possible
 - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
 - c. All dirt stock-pile areas should be sprayed daily as needed;
 - d. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible; and, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - e. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or maintain at least two feet of freeboard.
 - f. Where vehicles enter and exit unpaved roads onto streets, wheel washers or gravel pads shall be installed or trucks and equipment will be washed when leaving the site.
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- g. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where possible.
32. **Prior to approval of tract improvement plans**, the following notes shall be shown on the construction plans, and shall be implemented during construction:
- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - b. Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
 - c. Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; and,
 - d. Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District approved emission reduction retrofit devices.
33. **Prior to recordation of the final map**, the applicant shall provide evidence of contacting the Southern Pacific Railroad to inform them of the pending residential development and to request that train engines not be allowed to idle in the vicinity of the proposed development.
34. **Prior to recordation of the final map**, the public access trail shall be constructed. **Prior to construction of the public access trail**, the applicant shall submit copies of permits and authorizations from the California Department of Fish and Game, Regional Water Quality Control Board, and United States Army Corps of Engineers or documentation that these permits are not necessary.

Biological

35. **Prior to approval of tract improvement plans**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:
- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 39 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County. This mitigation alternative requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.
 - b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity. Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) or other Department-approved
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organization pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy", totals \$97,500. This fee must be paid after the Department provides written notification about the approved mitigation options, and prior to County permit issuance and initiation of any ground disturbing activities.

- c. Purchase 39 credits in an approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity. At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.
 - d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of 39 acres of suitable habitat in the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a Mitigation Agreement would need to be in place prior to County permit issuance and initiation of any ground disturbing activities.
36. **Prior to approval of tract improvement plans**, the applicant shall retain a qualified biologist acceptable to the U.S. Fish and Wildlife Service, California Department of Fish and Game and the San Luis Obispo County Department of Planning and Building/Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:
- a. Prior to issuance of construction permit and within 30 days prior to initiation of construction, conduct a pre-construction survey for active kit fox dens and submit a letter to the Department of Planning and Building confirming the completion and results of pre-construction survey.
 - b. Conduct weekly site visits during construction activities and submit weekly report to the County Planning and Building Department to ensure compliance with mitigation measures.
37. **Prior to approval of tract improvement plans**, roads on the subject property shall be posted with a 25-mile per hour (mph) speed limit or lower to reduce the likelihood of road mortality of the San Joaquin kit fox. The retained biologist shall discuss compliance in the initial pre-construction survey letter.
38. **Prior to approval of tract improvement plans**, all personnel associated with the project shall attend a worker education program conducted by the retained biologist regarding the San Joaquin kit fox. Specifics of this program should include San Joaquin kit fox life histories and careful review of the mitigation

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measures implemented to reduce impacts. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. The Department of Planning and Building shall be notified of the time that the applicant intends to hold this meeting.

39. **Prior to approval of tract improvement plans**, the applicant shall install bright temporary construction fencing along the perimeter of areas proposed for grading and development. The use and storage of equipment, materials, and soils shall not be permitted outside of areas proposed for grading and development.
40. **Prior to approval of tract improvement plans**, plans shall show the following measures. To prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded. During the site-disturbance and/or construction phase all the above measures shall be implemented.
41. **Prior to approval of tract improvement plans**, plans shall show the following measures. Any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped. During the site-disturbance and/or construction phase all the above measures shall be implemented.
42. **Prior to approval of tract improvement plans**, plans shall show the following measures. All food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed. During the site-disturbance and/or construction phase all the above measures shall be implemented.
43. **Prior to approval of tract improvement plans**, plans shall show the following measures. Use of pesticides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend. Prior to, during and after the site-disturbance and/or construction phase this measure shall be implemented.

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44. **Prior to approval of tract improvement plans**, plans shall show the following measures. Any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and Department by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to Department for care, analysis, or disposition. During the site-disturbance and/or construction phase, all the above measures shall be implemented.
45. **Prior to approval of tract improvement plans**, the applicant shall submit a spill contingency and clean-up plan to minimize the discharge of oils, fuels, and materials into the drainage area. The plan shall include precautionary measures to avoid leaks, a list of clean-up materials to be stored onsite, and an implementation plan for clean-up in the event of a spill.

Cultural Resources

46. **Prior to approval of tract improvement plans**, the applicant shall provide funding for the County of San Luis Obispo to retain an cultural resource management firm with demonstrated expertise in Mission era structures and resources to provide the following:
- a. Perform a subsurface investigation of the "remainder" lot south of the Diocese property, and on Lot 1 in order to confirm the presence and evaluate any potentially significant cultural resources associated with the neophyte quadrangle in any area potentially affected by proposed future road or access development.
 - b. Consult with the Diocese of Monterey to permit stabilization and other protective measures to the east side of the neophyte quadrangle in order to conserve the last remaining above ground remnant of the north wall of this facility.
 - c. Develop estimates for the cost of archaeologically excavating 31 neophyte rooms (equaling approximately 1,054 square meters) on the Diocese property as an offset for the impact that occurred due to the illegal grading of the Diocese properties and the project site. The total estimated volume of material destroyed and subject to mitigation is approximately 105.4 cubic meters. A payment program shall be developed phased with the development of the tract that provides for the equivalent of excavation of 100% of the disturbed volume. Monies shall be paid by the project applicant with credit for funds utilized for prior testing during the EIR evaluation. Credit shall not be given for those studies that evaluated resources or impacts on the project site (TR2527). These funds shall be held in trust by the California Mission Studies Association, California Missions Foundation or a comparable non-profit organization to be used for historical or archaeological studies, or restoration activities (no more than 50%) of resources or sites associated with San Miguel Mission. Preference of use of the funds shall be given to studies or resources related to Native American culture at the Mission.
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The program, payment phasing and fund administering organization shall be approved by the County of San Luis Obispo in consultation with the State of California, Office of Historic Preservation and representatives of the Salinan Tribe.

- d. Develop a detailed research design for an archaeological investigation of the brick and tile kiln. Upon the completion of the additional research, the applicant shall fund the construction and placement of a model of the neophyte quarters and kiln for interpretation purposes. Construction and placement of the model shall occur only if there is prior agreement by an appropriate institution to accept the model for interpretation purposes. Acceptable institutions include: Mission San Miguel, County of San Luis Obispo (Rios-Caledonia Adobe), County Historical Society, School District or a local San Miguel historical group with exhibit area.
 - e. Prepare and assemble the appropriate application and supporting documentation and process the nomination for placement of the cultural resources unearthed and still in place within and adjacent to the Mission Gardens Estates site for inclusion in the California Register of Historical Resources.
 - f. Prepare informational material appropriate for distribution at the Mission and elsewhere which presents photographs showing the Mission at different stages of its construction and alterations.
 - g. Provide a monitoring plan that shall include at a minimum:
 - 1) List of personnel involved in the monitoring activities, including a Native American representative;
 - 2) Description of how the monitoring shall occur;
 - 3) Description of frequency of monitoring (e.g. full-time, part-time, spot checking);
 - 4) Description of what resources are expected to be encountered;
 - 5) Description of circumstances that would result in the halting of work at the project site (e.g. What are considered "significant" archaeological resources);
 - 6) Description of procedures for halting work on the site and notification procedures and;
 - 7) Description of monitoring reporting procedures.
47. **Prior to approval of tract improvement plans**, the applicant shall demonstrate on improvement plans that the brick and tile kiln located on the slope on the Mission Gardens Estates site shall be preserved in place with adequate barriers to protect the resource from erosion and public access. Enough buffer space should be provided to insure preservation of the surrounding area.
48. **Upon completion of all monitoring/mitigation activities and prior to completion of tract improvements**, the consulting archeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/ mitigation activities; describing all features, deposits or cultural materials encountered; indicating provision for curation and confirming that all recommended mitigation measures have been met.
49. **Prior to approval of tract improvement plans**, the applicant shall provide for barriers, to be approved by the County of San Luis Obispo, to be erected or maintained to prevent unauthorized access to the Diocese properties, the

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remainder lot south and southeast of the Diocese property, and the open space areas of lot 1.

Drainage, Sedimentation & Erosion


50. **Prior to approval of tract improvement plans**, the applicant shall submit a drainage plan that is approved by the county Public Works Department.
51. **Prior to approval of tract improvement plans**, the applicant shall submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) submitted to the State Water Resources Control Board (SWRCB).
52. **Prior to approval of tract improvement plans**, a Sedimentation and Erosion Control Plan shall be submitted to the County Department of Public Works for review and approval. The plan shall indicate methods to control erosion which may include, but are not limited to, erosion fencing, hay bales, temporary siltation basins, erosion control blankets, etc. This plan, to be prepared by a registered civil engineer, shall conform to Section 22.52.090 of the County Land Use Ordinance and shall include:
 - a. Any required replacement vegetation/landscaping shall be planted well in advance of October 15 in order to provide sufficient time prior to the rainy season for roots to establish and effectively hold soil together.
 - b. Erosion control measures shall prevent sediment-laden runoff from entering the on-site or downstream wetland areas associated with the Salinas River.
 - c. Fossil filters or similar devices shall be installed in all drop outlets and/or catch basins to trap oil and other pollutants from entering downstream wetland habitats. Such devices shall be maintained on a regular basis and cleaned and/or replaced prior to each rainy season or pursuant to the manufacturer's guidance.
 - d. Areas temporarily disturbed by project grading shall be immediately seeded with an erosion control vegetative mix suitable for the project area and site conditions.
 - e. Measures such as silt fencing, sediment traps, soil stabilizers, use of water trucks, etc. to contain sediment on site and eliminate sediment deposition in any of the drainage on-site or off-site shall be utilized during project construction.
 - f. Project grading shall take place, if possible, during the dry seasons of the year which is defined as between April 15th and October 15th per Section 22.02.036 of the County Land Use Ordinance.
53. **Prior to approval of tract improvement plans**, all plans shall show the following, any undocumented wells will be capped and the removal of any existing, undocumented fills shall be monitored by a qualified soils geologist. During project grading in the event that any toxic or hazardous materials are discovered, qualified authorities shall be contacted immediately. Any required remediations, soils removal or other required actions shall occur prior to completion of project grading in accordance with applicable local, State or Federal regulations.

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Noise

54. **Prior to approval of tract improvement plans**, the applicant shall provide proof that all construction equipment using combustion engines have mufflers that are in good condition. Where feasible, stationary noise sources shall be located at least 300 feet from occupied dwellings unless noise-reducing engine housing enclosures or other noise screens are provided by the contractor.
55. **Prior to approval of tract improvement plans**, plans shall note that construction activities shall comply with the County of San Luis Obispo Noise Ordinance Section 22.06.042(d) which limits noise-generating construction activities to the hours between 7:00 a.m. and 9:00 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays. During construction activities, all measures noted above shall be implemented.

Safety

56. **Prior to approval of tract improvement plans**, detailed plans shall be submitted to the County of San Luis Obispo delineating the location and type of fencing or other solid, uninterrupted barrier in order to prevent direct access from the site to and across the Southern Pacific Railroad tracks in the vicinity of the project site.
57. **Prior to recordation of the final map**, plans for both the proposed primary and secondary, emergency-only access routes shall be submitted to and reviewed by the Union Pacific Railroad in order to insure that any required gates, warning signs, signage or other related safety measures are incorporated into the final design of both proposed access routes.
58. **Prior to recordation of the final map**, plans for a sidewalk crossing of the Union Pacific Railroad tracks at 11th Street shall be submitted to and reviewed by the Union Pacific Railroad and the County Department of Public Works. The applicant will be required to provide this sidewalk crossing prior to final inspection or project occupancy, whichever occurs first.
59. **Prior to recordation of the final map**, a Project Recycling Plan shall be submitted to be reviewed and approved by the San Miguel Community Services District and County Solid Waste Coordinator indicating methods of minimizing waste generation during project construction and achieve at least a 50% recycling rate for construction wastes. This plan shall include but may not be limited to purchasing practices that will insure that excess construction materials are not delivered to the site, that any materials and packaging that are delivered are recyclable locally and that proper separation of discarded materials (e.g., sheet rock, conduit, metal flashing, corrugated cardboard, scrap lumber, etc.) is conducted. In addition, the Project Recycling Plan shall incorporate the use of recycled materials where possible during all phases of project construction including the use of recycled flooring and roofing materials, glass, plastics, tile, carpet as well as the use of rubberized asphalt, recycled plastic signs, posts, wheel stops, etc. The Project Recycling Plan shall also identify methods of recycling/reuse of "green waste" generated during the operation of the proposed project.
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Additional Map Sheet

60. The applicant shall prepare an additional map sheet to be approved by the County of Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:

Residential Construction

a. **At the time of application for construction permits**, all building plans shall show the following requirements. These plans shall be reviewed and approved by the County Planning Department:

- 1) Designated building sites (and access drives) in any area that has more than three houses in a row with front set backs that are staggered by a minimum five-foot difference from the adjacent houses.
- 2) The preferred location of garages to be behind the front of house or along the side of the property. Garages shall sit back at least five feet from the front wall of 80 percent of the units.
- 3) Any unit in which the garage is 50 percent or more than the width of the street facing side shall provide for garage doors that include decorative windows.
- 4) The main entry of the home should be located on the street side of the building and located within a veranda or porch a minimum of six feet wide.
- 5) The driveway widths should be no greater than 12 feet of lot frontage and should flair wider to the garage door.
- 6) Single lane driveways that flair at garage or shared driveways to be used by more than one house.
- 7) Quality design and construction.
- 8) Architecture compatible with existing neighborhoods and their traditional character.
- 9) All sides of residences should be detailed and articulated with relief elements and changes in plane with elements such as bay windows, chimneys, trellises or changes in materials.
- 10) A minimum of three different front façades with some set further back from neighboring facades to create texture and interest.
- 11) A color board to include manufacturer's specifications for color samples of building materials and roofs. The colors selected shall be muted, darker tones and shall be selected to match color tones seen in surrounding areas. Red tile roofs shall be avoided. The specular gloss rating of the roof material shall be 10 percent to 15 percent at an angle 60 degrees.
- 12) Outdoor electrical outlets shall be provided to encourage the use of electric appliances and tools.
- 13) Building design shall include as many energy-conserving features as possible including, but not limited to, increasing wall and roof insulation to 10% above Title 24 requirements.
- 14) Low nitrogen oxide emitting water heaters and built-in efficient appliances shall be provided.
- 15) Double-paned thermally-efficient windows shall be used on all structures.
- 16) Energy efficient interior lighting shall be used in all structures.


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- 17) Shade trees shall be provided along southern exposures of buildings to reduce summer cooling needs.
 - 18) Roof materials with a solar reflectance value meeting the EPA/DOE Energy Star rating shall be used to reduce summer cooling needs. These roof materials are required to be of muted darker tones.
 - 19) Only APCD approved wood burning devices shall be installed in new dwelling units. The project applicant shall provide new home buyers with information identifying approved wood-burning devices.
 - 20) All buildings shall be constructed with spark arresters on all chimneys and fire retardant roofing material as described in Section 3202 of the Uniform Building Code. Any wood shingles or shakes shall have a Class "A" or "B" rating and shall be approved by the San Miguel Community Services District prior to installation.
 - 21) A Fire Safety and Fuel Reduction Plan in accordance with California Department of Forestry standards.
 - 22) Compliance with the approved Project Recycling Plan that applies to the on-going operation of the subdivision after the residences have been completed.
 - 23) In accordance with the Uniform Plumbing Code, ultra low-flow toilets (1.6 gallons per flush) shall be installed within the proposed project. Low-flow shower heads (2.0 gallons per minute) shall also be utilized.
 - 24) All appliances installed within the proposed project shall be water conserving models, including but not limited to, dishwashers.
 - 25) The proposed project shall, where possible, use efficient irrigation systems which minimize surface runoff and evaporation and maximize the water which will reach plant roots.
 - 26) All proposed structures shall be designed to insure the 45 dBA Leq interior noise standard is met. Measures to achieve this standard may include, but are not limited to, the use of mechanical ventilation provided per the Uniform Building Code. Windows and sliding glass door frames shall be mounted in low air infiltration rate frames (0.5 cfm or less per ANSI specifications) or exterior doors shall be solid core with perimeter weather-striping and threshold seals
- b. Notification to prospective buyers of the county's Right to Farm Ordinance currently in effect at any time said deed(s) are recorded.
 - c. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
 - d. The limits of inundation from a 100-year storm over lots 54, 55, 56, 57, 58, 59, 60 and 61 from the Salinas River shall be shown on the additional map and note the required building restriction on the sheet.
 - e. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
 - f. Prior to final of any related building permit, all approved landscaping shall be installed.



- g. During construction/ground disturbing activities for residential construction, the applicant shall implement the following particulate (dust) control measures. These measures shall be shown on the grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to commencement of construction.
- 1) Reduce the amount of disturbed area where possible;
 - 2) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
 - 3) All dirt stock-pile areas should be sprayed daily as needed;
 - 4) All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible; and, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - 5) All trucks hauling dirt, sand, soil, or other loose materials shall be covered or maintain at least two feet of freeboard.
 - 6) Where vehicles enter and exit unpaved roads onto streets, wheel washers or gravel pads shall be installed or trucks and equipment will be washed when leaving the site.
 - 7) Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where possible.
- h. **Prior to issuance of construction permits**, the following notes shall be shown on construction plans, and shall be implemented during construction:
- 1) Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - 2) Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
 - 3) Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; and,
 - 4) Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District approved emission reduction retrofit devices.
 - 5) Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - 6) Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);



- 7) Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; and, Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District approved emission reduction retrofit devices.
- i. Developmental burning shall be prohibited unless a burn permit from the Air Pollution Control District and California Department of Forestry/County Fire (CDF) is obtained. If the applicant has any questions regarding these requirements, they shall contact Ms. Karen Brooks, APCD at 781-5912.
- j. **Prior to issuance of construction permits**, the applicant shall retain a qualified biologist acceptable to the U.S. Fish and Wildlife Service, California Department of Fish and Game and the San Luis Obispo County Department of Planning and Building/Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:
- 1) Prior to issuance of construction permit and within 30 days prior to initiation of construction, conduct a pre-construction survey for active kit fox dens and submit a letter to the Department of Planning and Building confirming the completion and results of pre-construction survey.
- 2) Conduct weekly site visits during construction activities and submit weekly reports to the County Planning and Building Department to ensure compliance with mitigation measures.
- k. **Prior to issuance of construction permits**, roads on the subject property shall be posted with a 25-mile per hour (mph) speed limit or lower to reduce the likelihood of road mortality of the San Joaquin kit fox. The retained biologist shall discuss compliance in the initial pre-construction survey letter.
- l. **Prior to construction**, all personnel associated with the project shall attend a worker education program conducted by the retained biologist regarding the San Joaquin kit fox. Specifics of this program should include San Joaquin kit fox life histories and careful review of the mitigation measures implemented to reduce impacts. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. The Department of Planning and Building shall be notified of the time that the applicant intends to hold this meeting.
- m. To prevent entrapment of the San Joaquin kit fox during the construction phase of the project, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped San Joaquin kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped San Joaquin kit fox. Any San Joaquin kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.
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- n. During the construction, any pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the project site for one or more overnight periods shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a San Joaquin kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary will be moved only once to remove it from the path of activity, until the San Joaquin kit fox has escaped.
- o. All food-related trash items such as wrappers, cans, bottles, and food scraps generated during the construction phase shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed. All waste products shall be disposed of in a manner that would not attract red fox, coyotes, or domestic dogs to the area.
- p. Use of pesticides shall be in compliance with all local, state and federal regulations. This is necessary to prevent primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.
- q. All workers and associated personnel shall obey the posted 25-mph speed limit. Additionally, vehicular activity between dusk and dawn shall be kept to a minimum.
- r. No San Joaquin kit fox dens were observed during the field surveys. However, if any potential or known San Joaquin kit fox dens are subsequently observed during the required pre-activity survey, the following mitigation measures shall apply:
 - 1) Fenced exclusion zones shall be established around all San Joaquin kit fox dens that can be avoided but may be inadvertently impacted by project activities. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 - 2) Potential San Joaquin kit fox den: 50 feet
 - 3) Known San Joaquin kit fox den: 100 feet
 - 4) San Joaquin kit fox pupping den: 150 feet.
 - 5) Only essential vehicle operation on existing roads (if the exclusion zone intersects a road) and simple foot traffic shall be permitted within these exclusion zones. Otherwise, all project activities such as vehicle operation, materials storage, etc., shall be prohibited. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed. If specified exclusion zones cannot be observed for any reason, the U.S. Fish and Wildlife Service and California Department of Fish and Game shall be contacted for guidance prior to ground disturbing activities on or near the subject den or burrow.

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If any known or potential San Joaquin kit fox dens are discovered within the building envelope which shall be unavoidably destroyed by the proposed project, excavation of San Joaquin kit fox dens shall not proceed without authorization from the U.S. Fish and Wildlife Service and California Department of Fish and Game.

- s. Any project contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to a supervisor overseeing the project or operation. In the event that such observations are made of injured or dead San Joaquin kit fox, the applicant shall immediately notify the US Fish and Wildlife Service and the California Department of Fish and Game by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the California Department of Fish and Game for care, analysis, or disposition.
- t. **Prior to final inspection**, should any long internal or perimeter fencing be installed, the applicant shall do the following to provide for kit fox passage:
 - 1) If a wire stand/pole is used, the lowest strand shall be no closer to the ground than twelve inches.
 - 2) If a solid wire mesh fence is used, eight-inch by twelve-inch openings near the ground shall be provided at least every 300 feet.
- u. **Prior to issuance of construction permits**, the applicant shall install bright temporary construction fencing along the perimeter of areas proposed for grading and development. The use and storage of equipment, materials, and soils shall not be permitted outside of areas proposed for grading and development.
- v. **Prior to issuance of construction permits**, the applicant shall submit a spill contingency and clean-up plan to minimize the discharge of oils, fuels, and materials into the drainage area. The plan shall include precautionary measures to avoid leaks, a list of clean-up materials to be stored onsite, and an implementation plan for clean-up in the event of a spill.
- w. All residential construction will participate in any County Transportation Impact Fee Programs or any other applicable roadway or intersection improvement programs and provide its fair share contribution based upon the extent of project impacts.

Covenants, Conditions and Restriction

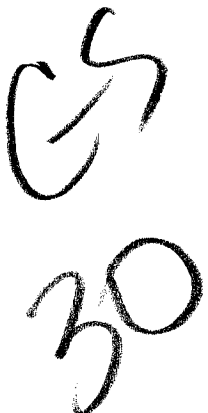
61. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide at a minimum the following provisions:
- a. Notification to prospective buyers of the county's Right to Farm Ordinance currently in effect at any time said deed(s) are recorded.



- b. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
 - c. The limits of inundation from a 100-year storm over lots 54, 55, 56, 57, 58, 59, 60 and 61 from the Salinas River shall be shown on the additional map and note the required building restriction on the Exhibit attached to the CC&R's.
 - d. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
 - e. Notification to prospective buyers and future owners of the property the location and operation of the adjacent wastewater treatment plant and a written release of information regarding exposure to objectionable odors.
 - f. Notification to prospective buyers and future owners of the property that the property is in an area subject to noise generated from illegal activity within the Salinas River.
 - g. Notification to prospective buyers and future owners of the property that off road vehicle use, camping, target practice and other uses that are damaging to the Salinas River are prohibited on the open space parcel.
62. All landscaping to be installed on site shall reflect the following water conservation methods in perpetuity: landscape with low water consuming plants; group plants with similar irrigation requirements to reduce over-irrigation; use of mulch in order to improve the water holding capacity of the soil by reducing evaporation and soil compaction and install efficient irrigation systems that minimize runoff and evaporation and maximize the amount of water that will reach the plant roots. Drip irrigation, soil moisture sensor and automatic irrigation systems also represent methods of increasing irrigation efficiency.

Miscellaneous

63. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer a copy of which is attached hereto and incorporated by reference herein as though set forth in full.
64. Applicant shall file with the Department of Public Works an application requesting apportionment of any unpaid assessments under the Improvement Bond Act of 1915, in compliance with Section 8740.1 of the Streets and Highways Code of the State of California. Said apportionment must be completed prior to filing the map.
65. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.
66. The subdivider shall as a condition of approval of this tentative or parcel map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this subdivision, which action is brought within the time period provided for by law. This condition is subject to

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the provisions of Government Code section 66474.9, which are incorporated by reference herein as though set forth in full.

67. Prior to the sale or development of the designated remainder or omitted parcel, if applicable, the applicant shall obtain approval of a certificate of compliance or conditional certificate of compliance from the county which would include a subsurface investigation to confirm the presence and evaluate any potentially significant resources.
68. The applicant shall as a condition of approval of this conditional use permit and tentative or final map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this conditional use permit and subdivision, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code section 66474.9, which are incorporated by reference herein as though set forth in full.

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STANDARD CONDITIONS OF APPROVAL FOR
SUBDIVISIONS USING COMMUNITY WATER AND SEWER

1. Community water and fire protection shall be obtained from the community water system.
2. Operable water facilities from an approved community water source shall be assured prior to the filing of the final map. A "final will serve" letter shall be obtained and submitted to the county Health Department for review and approval stating there are operable water facilities immediately available for connection to the parcels created. Water main extensions, laterals to each parcel and related facilities (except well(s)) may be bonded for subject to the approval of county Public Works, the county Health Department and the public water utility.
3. No residential building permits are to be issued until the community (public) water system is operational with a domestic water supply permit issued by the county Health Officer.
4. In order to protect the public safety and prevent possible groundwater pollution, any abandoned wells on the property shall be destroyed in accordance with the San Luis Obispo County Well Ordinance Chapter 8.40, and county Health Department destruction standards. The applicant is required to obtain a permit from the county Health Department.
5. When a potentially operational or operational auxiliary water supply in the form of an existing well(s) is located on the parcels created and approved community water is proposed to serve the parcels, the community water supply shall be protected from real or potential cross-contamination by means of an approved cross-connection control device installed at the meter or property line service connection prior to occupancy. (Chapter 8.30, San Luis Obispo County Ordinance)
6. Sewer service shall be obtained from the community sewage disposal system.
7. Prior to the filing of the map a "final will serve" letter be obtained and submitted to the county Health for review and approval stating that community sewer system service is immediately available for connection to the parcels created. Sewer main extensions may be bonded for, subject to the approval of county Public Works and sewer district.
8. No residential building permits shall be issued until community sewers are operational and available for connection.
9. An encroachment permit shall be obtained from county Public Works for any work to be done within the county right-of-way.
10. An encroachment permit shall be obtained from the California Department of Transportation for any work to be done on the state highway.

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11. Any existing reservoir or drainage swale on the property shall be delineated on the map.
12. Prior to submission of the map "checkprints" to county Public Works, the project shall be reviewed by all applicable public utility companies and a letter be obtained indicating required easements.
13. Required public utility easements shall be shown on the map.
14. Approved street names shall be shown on the map.
15. The applicant shall comply with state, county and district laws/ordinances applicable to fire protection and consider increased fire risk to area by the subdivision of land proposed.
16. The developer shall submit a preliminary subdivision guarantee to county Public Works for review prior to the filing of the map.
17. Any private easements on the property shall be shown on the map with recording data.
18. All conditions of approval herein specified, unless otherwise noted, shall be complied with prior to the filing of the map.
19. After approval by the Review Authority, compliance with the preceding conditions will bring the proposed subdivision in conformance with the Subdivision Map Act and county ordinances.
20. A map shall be filed in accordance with Subdivision Map Act and county ordinance prior to sale, lease, or financing of the lots proposed by the subdivision.
21. A tentative map will expire 24 months from the effective date of the approval. Tentative maps may be extended. Written requests with appropriate fees must be submitted to the Planning Department prior to the expiration date. The expiration of tentative maps will terminate all proceedings on the matter.

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**TRACT 2527 / S030011U
CONDITIONAL USE PERMIT
FINDINGS - EXHIBIT C**

Environmental Determination

- A. Certify the proposed Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq.
- B. Adopt the findings of the proposed Final Environmental Impact Report which finds that there is evidence that the project may have a significant effect on the environment, and therefore a Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) Mitigation measures were identified to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology & soils, hazards/hazardous materials, noise, population/housing, public services, recreation, traffic/circulation, water, wastewater, and land use & planning. Significant and unavoidable impacts to cultural resources were identified.

Conditional Use Permit

- C. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- D. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- E. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the six residential lots and one open space lot does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- F. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the residential lots are similar to, and will not conflict with, the surrounding residential and commercial lands and uses.
- G. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because The project is located off of 11th St. and is required to improve local streets connecting to 11th St.
- H. The development will not create significant adverse effects on the natural features of the site and will preserve and protect such features through the site design. A drainage plan is required to protect the Salinas River from project

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runoff.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because topography and the Flood Hazard area have been considered in the subdivision design, and the Salinas River and associated habitat will be protected by an open space easement.
- J. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because a qualified archeologist and Native American will be on site for all grading.
- K. The site design and development cannot be feasibly changed to avoid intrusion into or disturbance of archaeological resources. Illegal grading has occurred on the site that has already resulted in a significant impact to archaeological resources. Mitigation has been applied to the project to the maximum extent feasible. Construction will use appropriate methods to protect the integrity of the site. Such methods include a qualified archeologist and Native American will be on site for all grading in sensitive areas, if archeological resources are found work shall stop immediately and the County Environmental department will be contacted right a way.

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**TRACT 2527 / S030011U
CONDITIONAL USE PERMIT
CONDITIONS - EXHIBIT D**

Approved Project

1. A Vesting Tract Map and a Conditional Use Permit allow a cluster subdivision to subdivide three existing parcels totaling 50.55 acres into: 58 residential parcels ranging from 5,360 square feet to 12,500 square feet, one residential parcel of 4.75 acres, one 11.16 acre open space parcel with a 6,000 square foot building envelope, for the purpose of sale and/or development, and one non-buildable open space parcel of 20.22 acres and a 2.43 acre remainder lot.

Condition Compliance/ Mitigation Monitoring

2. Prior to issuance of construction permits, the applicant shall provide funding for the County of San Luis Obispo to retain an environmental monitor to ensure compliance with County Conditions of Approval and EIR mitigation measures. The monitor shall assist the County in condition compliance and mitigation monitoring for all stage of the project development including review of tract improvement plans, monitoring during tract improvements, and review and development of subsequent residential development. The monitor will prepare a working monitoring plan that reflects the County-approved environmental mitigation measures/ conditions of approval. This plan will include (1) goals, responsibilities, authorities, and procedures for verifying compliance with environmental mitigations; (2) lines of communication and reporting methods; (3) daily and weekly reporting of compliance; (4) construction crew training regarding environmental sensitivities; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. The environmental monitor shall be under contract to the County of San Luis Obispo. Costs of the monitor and any county administrative fees, shall be paid for by the applicant.

Conditions required to be completed at the time of application for construction permits

Residential Construction

3. **At the time of application for construction permits**, all building plans shall show the following requirements. These plans shall be reviewed and approved by the County Planning Department:
 - a. Designated building sites (and access drives) in any area that has more than three houses in a row with front set backs that are staggered by a minimum five-foot difference from the adjacent houses.
 - b. The preferred location of garages to be behind the front of house or along the side of the property. Garages shall sit back at least five feet from the front wall of 80 percent of the units.
 - c. Any unit in which the garage is 50 percent or more than the width of the street facing side shall provide for garage doors that include decorative windows.
 - d. The main entry of the home should be located on the street side of the building and located within a veranda or porch a minimum of six feet wide.
 - e. The driveway widths should be no greater than 12 feet of lot frontage and should flair wider to the garage door.



- f. Single lane driveways that flair at garage or shared driveways to be used by more than one house.
- g. Quality design and construction.
- h. Architecture compatible with existing neighborhoods and their traditional character.
- i. All sides of residences should be detailed and articulated with relief elements and changes in plane with elements such as bay windows, chimneys, trellises or changes in materials.
- j. A minimum of three different front façades with some set further back from neighboring facades to create texture and interest.
- k. A color board to include manufacturer's specifications for color samples of building materials and roofs. The colors selected shall be muted, darker tones and shall be selected to match color tones seen in surrounding areas. Red tile roofs shall be avoided. The specular gloss rating of the roof material shall be 10 percent to 15 percent at an angle 60 degrees.
- l. Outdoor electrical outlets shall be provided to encourage the use of electric appliances and tools.
- m. Building design shall include as many energy-conserving features as possible including, but not limited to, increasing wall and roof insulation to 10% above Title 24 requirements.
- n. Low nitrogen oxide emitting water heaters and built-in efficient appliances shall be provided.
- o. Double-paned thermally-efficient windows shall be used on all structures.
- p. Energy efficient interior lighting shall be used in all structures.
- q. Shade trees shall be provided along southern exposures of buildings to reduce summer cooling needs.
- r. Roof materials with a solar reflectance value meeting the EPA/DOE Energy Star rating shall be used to reduce summer cooling needs. These roof materials are required to be of muted darker tones.
- s. Only APCD approved wood burning devices shall be installed in new dwelling units. The project applicant shall provide new home buyers with information identifying approved wood-burning devices.
- t. All buildings shall be constructed with spark arresters on all chimneys and fire retardant roofing material as described in Section 3202 of the Uniform Building Code. Any wood shingles or shakes shall have a Class "A" or "B" rating and shall be approved by the San Miguel Community Services District prior to installation.
- u.. A Fire Safety and Fuel Reduction Plan in accordance with California Department of Forestry standards.
- v. Compliance with the approved Project Recycling Plan that applies to the on-going operation of the subdivision after the residences have been completed.
- w. In accordance with the Uniform Plumbing Code, ultra low-flow toilets (1.6 gallons per flush) shall be installed within the proposed project. Low-flow shower heads (2.0 gallons per minute) shall also be utilized.
- x. All appliances installed within the proposed project shall be water conserving models, including but not limited to, dishwashers.
- y. The proposed project shall, where possible, use efficient irrigation systems which minimize surface runoff and evaporation and maximize the water which will reach plant roots.

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- z. All proposed structures shall be designed to insure the 45 dBA Leq interior noise standard is met. Measures to achieve this standard may include, but are not limited to, the use of mechanical ventilation provided per the Uniform Building Code. Windows and sliding glass door frames shall be mounted in low air infiltration rate frames (0.5 cfm or less per ANSI specifications) or exterior doors shall be solid core with perimeter weather-stripping and threshold seals
- 4. Prior to final of any related building permit, all approved landscaping shall be installed.
- 5. During construction/ground disturbing activities for residential construction, the applicant shall implement the following particulate (dust) control measures. These measures shall be shown on the grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to commencement of construction.
 - a. Reduce the amount of disturbed area where possible;
 - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
 - c. All dirt stock-pile areas should be sprayed daily as needed;
 - d. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible; and, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - e. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or maintain at least two feet of freeboard.
 - f. Where vehicles enter and exit unpaved roads onto streets, wheel washers or gravel pads shall be installed or trucks and equipment will be washed when leaving the site.
 - g. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where possible.
- 6. **Prior to issuance of construction permits**, the following notes shall be shown on construction plans, and shall be implemented during construction:
 - a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - b. Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
 - c. Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; and,
 - d. Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District approved emission reduction retrofit devices.



- e. Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - f. Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
 - g. Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; and, Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District approved emission reduction retrofit devices.
7. Developmental burning shall be prohibited unless a burn permit from the Air Pollution Control District and California Department of Forestry/County Fire (CDF) is obtained. If the applicant has any questions regarding these requirements, they shall contact Ms. Karen Brooks, APCD at 781-5912.
8. **Prior to issuance of construction permits**, the applicant shall retain a qualified biologist acceptable to the U.S. Fish and Wildlife Service, California Department of Fish and Game and the San Luis Obispo County Department of Planning and Building/Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:
- a. Prior to issuance of construction permit and within 30 days prior to initiation of construction, conduct a pre-construction survey for active kit fox dens and submit a letter to the Department of Planning and Building confirming the completion and results of pre-construction survey.
 - b. Conduct weekly site visits during construction activities and submit weekly reports to the County Planning and Building Department to ensure compliance with mitigation measures.
9. **Prior to issuance of construction permits**, roads on the subject property shall be posted with a 25-mile per hour (mph) speed limit or lower to reduce the likelihood of road mortality of the San Joaquin kit fox. The retained biologist shall discuss compliance in the initial pre-construction survey letter.
10. **Prior to construction**, all personnel associated with the project shall attend a worker education program conducted by the retained biologist regarding the San Joaquin kit fox. Specifics of this program should include San Joaquin kit fox life histories and careful review of the mitigation measures implemented to reduce impacts. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. The Department of Planning and Building shall be notified of the time that the applicant intends to hold this meeting.
11. To prevent entrapment of the San Joaquin kit fox during the construction phase of the project, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped San Joaquin kit

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fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped San Joaquin kit fox. Any San Joaquin kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

12. During the construction, any pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the project site for one or more overnight periods shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a San Joaquin kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary will be moved only once to remove it from the path of activity, until the San Joaquin kit fox has escaped.
13. All food-related trash items such as wrappers, cans, bottles, and food scraps generated during the construction phase shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed. All waste products shall be disposed of in a manner that would not attract red fox, coyotes, or domestic dogs to the area.
14. Use of pesticides shall be in compliance with all local, state and federal regulations. This is necessary to prevent primary or secondary poisoning of endangered species using adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.
15. All workers and associated personnel shall obey the posted 25-mph speed limit. Additionally, vehicular activity between dusk and dawn shall be kept to a minimum.
16. No San Joaquin kit fox dens were observed during the field surveys. However, if any potential or known San Joaquin kit fox dens are subsequently observed during the required pre-activity survey, the following mitigation measures shall apply:
 - a. Fenced exclusion zones shall be established around all San Joaquin kit fox dens that can be avoided but may be inadvertently impacted by project activities. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 - 1) Potential San Joaquin kit fox den: 50 feet
 - 2) Known San Joaquin kit fox den: 100 feet
 - 3) San Joaquin kit fox pupping den: 150 feet.
17. Only essential vehicle operation on existing roads (if the exclusion zone intersects a road) and simple foot traffic shall be permitted within these exclusion zones. Otherwise, all project activities such as vehicle operation, materials

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storage, etc., shall be prohibited. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed. If specified exclusion zones cannot be observed for any reason, the U.S. Fish and Wildlife Service and California Department of Fish and Game shall be contacted for guidance prior to ground disturbing activities on or near the subject den or burrow.

If any known or potential San Joaquin kit fox dens are discovered within the building envelope which shall be unavoidably destroyed by the proposed project, excavation of San Joaquin kit fox dens shall not proceed without authorization from the U.S. Fish and Wildlife Service and California Department of Fish and Game.

18. Any project contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to a supervisor overseeing the project or operation. In the event that such observations are made of injured or dead San Joaquin kit fox, the applicant shall immediately notify the US Fish and Wildlife Service and the California Department of Fish and Game by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the California Department of Fish and Game for care, analysis, or disposition.
19. **Prior to final inspection**, should any long internal or perimeter fencing be installed, the applicant shall do the following to provide for kit fox passage:
 - a. If a wire stand/pole is used, the lowest strand shall be no closer to the ground than twelve inches.
 - b. If a solid wire mesh fence is used, eight-inch by twelve-inch openings near the ground shall be provided at least every 300 feet.
20. **Prior to issuance of construction permits**, the applicant shall install bright temporary construction fencing along the perimeter of areas proposed for grading and development. The use and storage of equipment, materials, and soils shall not be permitted outside of areas proposed for grading and development.
21. **Prior to issuance of construction permits**, the applicant shall submit a spill contingency and clean-up plan to minimize the discharge of oils, fuels, and materials into the drainage area. The plan shall include precautionary measures to avoid leaks, a list of clean-up materials to be stored onsite, and an implementation plan for clean-up in the event of a spill.
22. All residential construction will participate in any County Transportation Impact Fee Programs or any other applicable roadway or intersection improvement programs and provide its fair share contribution based upon the extent of project impacts.
23. All landscaping to be installed on site shall reflect the following water conservation methods in perpetuity: landscape with low water consuming plants; group plants with similar irrigation requirements to reduce over-irrigation; use of mulch in order to improve the water holding capacity of the soil by reducing

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evaporation and soil compaction and install efficient irrigation systems that minimize runoff and evaporation and maximize the amount of water that will reach the plant roots. Drip irrigation, soil moisture sensor and automatic irrigation systems also represent methods of increasing irrigation efficiency.

Services

24. **At the time of application for construction permits**, the applicant shall provide a letter from San Miguel Community Services District stating they are willing and able to service the property.

Conditions to be completed prior to issuance of a construction permit

25. **Prior to issuance of construction permits**, the applicant shall provide funding for the County of San Luis Obispo to retain a cultural resource management firm with demonstrated expertise in Mission era structures and resources to provide the following:
- a. Perform a subsurface investigation of the "remainder" lot south of the Diocese property, and on Lot 1 in order to confirm the presence and evaluate any potentially significant cultural resources associated with the neophyte quadrangle in any area potentially affected by proposed future road or access development.
 - b. Consult with the Diocese of Monterey to permit stabilization and other protective measures to the east side of the neophyte quadrangle in order to conserve the last remaining above ground remnant of the north wall of this facility.
 - c. Develop estimates for the cost of archaeologically excavating 31 neophyte rooms and 1,092 square meters on the Diocese property as an offset for the impact that occurred due to the illegal grading of the Diocese properties and the project site. A payment program shall be developed phased with the development of the tract. Monies shall be paid by the project applicant with credit for funds utilized for prior testing. These funds shall be held in trust by the California Mission Studies Association, California Missions Foundation or a comparable non-profit organization to be used for historical and archaeological studies of San Miguel Mission. Ideally, these studies would focus on Native American culture at the Mission. The program, payment phasing and fund administering organization shall be approved by the County of San Luis Obispo in consultation with the State of California, Office of Historic Preservation and representatives of the Salinan Tribe.
 - d. Develop a detailed research design for an archaeological investigation of the brick and tile kiln. Upon the completion of the additional research, the applicant shall fund the construction and placement of a model of the neophyte quarters and kiln for interpretation purposes. Construction and placement of the model shall occur only if there is prior agreement by an appropriate institution to accept the model for interpretation purposes. Acceptable institutions include: Mission San Miguel, County of San Luis

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- Obispo (Rios-Caledonia Adobe), County Historical Society, School District or a local San Miguel historical group with exhibit area.
- e. Prepare and assemble the appropriate application and supporting documentation and process the nomination for placement of the cultural resources unearthed and still in place within and adjacent to the Mission Gardens Estates site for inclusion in the California Register of Historical Resources.
 - f. Prepare informational material appropriate for distribution at the Mission and elsewhere which presents photographs showing the Mission at different stages of its construction and alterations.
 - g. Provide a monitoring plan that shall include at a minimum:
 - i. List of personnel involved in the monitoring activities, including a Native American representative;
 - ii. Description of how the monitoring shall occur;
 - iii. Description of frequency of monitoring (e.g. full-time, part-time, spot checking);
 - iv. Description of what resources are expected to be encountered;
 - v. Description of circumstances that would result in the halting of work at the project site (e.g. What are considered "significant" archaeological resources);
 - vi. Description of procedures for halting work on the site and notification procedures and;
 - vii. Description of monitoring reporting procedures.

Fees

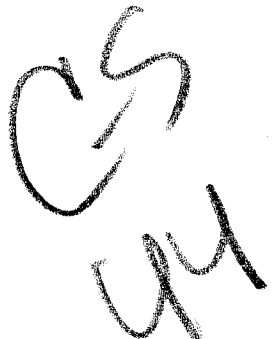
- 26. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
- 27. The proposed project will participate in any County Transportation Impact Fee Programs or any other applicable roadway or intersection improvement programs and provide its fair share contribution based upon the extent of project impacts.
- 28. During construction/ground disturbing activities for residential construction, the applicant shall implement the following particulate (dust) control measures. These measures shall be shown on the grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to commencement of construction.
 - a. Reduce the amount of disturbed area where possible;
 - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
 - c. All dirt stock-pile areas should be sprayed daily as needed;
 - d. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible; and, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - e. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or maintain at least two feet of freeboard.



- f. Where vehicles enter and exit unpaved roads onto streets, wheel washers or gravel pads shall be installed or trucks and equipment will be washed when leaving the site.
 - g. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where possible.
29. During all ground disturbing construction activities, the applicant shall for a qualified archeologist and Native American representative, approved by the County of San Luis Obispo to monitor all earth disturbing activities pursuant to the approved monitoring plan. If any significant archeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity of the resource (precise area to be determined by the archeologist in the field) until such time as the resource can be evaluated by the archeologist. Human remains will be addressed according to State law. The applicant shall implement all mitigations as required by the Environmental Coordinator.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

30. Upon completion of all monitoring/mitigation activities and prior to occupancy or final inspection (whichever occurs first), the consulting archeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/ mitigation activities; describing all features, deposits or cultural materials encountered; indicating provision for curation and confirming that all recommended mitigation measures have been met.
31. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.
32. The applicant shall as a condition of approval of this conditional use permit and tentative or final map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this conditional use permit and subdivision, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code section 66474.9, which are incorporated by reference herein as though set forth in full.



**FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS
REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT (STATE
CLEARINGHOUSE NUMBER 2004051154) FOR THE
MISSION GARDENS ESTATES TRACT 2527
EXHIBIT E**

The County of San Luis Obispo (the "County") hereby certifies the Mission Gardens Estates Final Environmental Impact Report, State Clearinghouse Number 2004051154, which consists of the Draft EIR, the Responses to Comments on the Draft EIR, the Mitigation Monitoring/Reporting Program, these Findings of Fact, the Staff Report and any associated attachments (collectively referred to as the "Final EIR"), and finds that it has been completed in compliance with the California Environmental Quality Act (Public Resource Code Section 21000, et seq.) ("CEQA") and that the County of San Luis Obispo has received, reviewed and considered the information contained in the Final EIR, all hearings, and submissions of testimony from officials and Departments of the County, the applicant, the public and other municipalities and agencies.

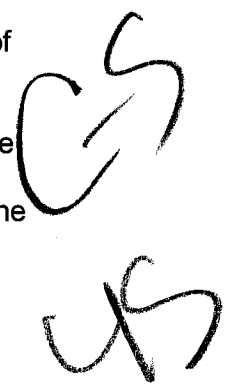
Having received, reviewed and considered the foregoing information, as well as any and all information in the record, the County of San Luis Obispo hereby makes these Findings of Fact pursuant to, and in accordance with, Section 21081 of the Public Resource Code as follows:

BACKGROUND

The proposed Mission Gardens Estates project involves a 60 lot residential development with lots ranging in size from 6,001 to 11,634 square feet within a 12.5 acre area, two open space lots and one remainder parcel. The project involves grading and installing improvements and utilities resulting in the disturbance of approximately 13 acres and movement of approximately 30,000 cubic yards of cut and fill. Earthwork is anticipated to balance on-site with equal amounts (15,000 cubic yards) of cut and fill. Off-site roadway improvements include provision of a two-lane, paved roadway extension from 11th Street south to the project boundary. Utility extensions will also be provided along this roadway to serve the proposed project.

The proposed project will be constructed in one phase. Project grading is expected to be completed within two months with construction of structures, roadways and utilities requiring an additional four to eight months.

Premature site work and improvements occurred during the summer of 2003. During these grading activities, portions of adjacent properties to the west and south, not owned by the applicant, were graded or disturbed. When the activity was noted, the County of San Luis Obispo was informed and issued an order to cease grading. This unauthorized grading had encroached onto two adjacent lots owned by the Diocese of Monterey, areas containing former neophyte dwellings and an orchard, both of which were associated with the historic operation of the Mission San Miguel. The neophyte dwelling is located on the terrace west of and overlooking the subject property with the Mission orchard located to the east and south of the neophyte dwelling area. Both of these areas were graded and topsoil was removed and placed on the project site to the east.



Due to its rarity in the State, any structure or resource associated with one of the 21 original missions is considered extremely important. The Final EIR evaluated the cultural resources within the area proposed for development as well the area impacted by the illegal grading. The EIR use the criteria for historic resources found in the State CEQA Guidelines State CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15064.5). Due to the importance and rarity of the resource, the neophyte quarters remains would qualify as a historic resource under three of the four criteria listed in Guidelines Section 15064.5(3) including:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage – *(the founding and operation of Mission San Miguel and the role of the Native American's at that Mission.)*

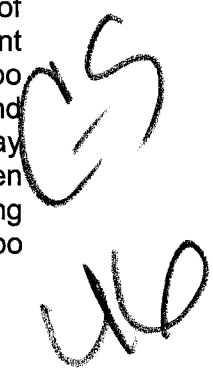
(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values – *(example of Mission adobe construction including building layout and function.)*

(D) Has yielded, or may be likely to yield, information important in prehistory or history – *(the role of the Native Americans at Mission San Miguel including everyday life, diet, etc.)*

The Final EIR addresses the impacts of the previously-conducted, unauthorized grading activities as well as the impacts of project development upon cultural resources found within and adjacent to the project site.

The proposed project involves the following approvals from the County of San Luis Obispo: Certification of the Final Environmental Impact Report for the proposed Mission Gardens Estates project; Approval of Mitigation Monitoring Program for the proposed project; Approval of Vesting Tentative Tract 2527 to accommodate the proposed uses and issuance of grading permits, building permits, etc. from the County of San Luis Obispo. The proposed Mission Gardens Estates project may also require the following permits by other involved regulatory agencies including: Water Quality Certification and Storm Water Discharge Permits from the Central Coast Regional Water Quality Control Board; Wastewater Discharge Permits from the Central Coast Regional Water Quality Control Board; Section 404 permits under the Clean Water Act from the U.S. Army Corps of Engineers and review and approval of utility and building plans by the San Miguel Community Services District.

This Final Environmental Impact Report (EIR) has been prepared in accordance with the California Environmental Quality Act of 1970 (CEQA) as amended (Public Resources Code Section 21000, et. seq.). This Final EIR is intended to address all of the impacts, mitigation measures, project alternatives, etc. associated with the current project. An Initial Study for the project was prepared by the County of San Luis Obispo and a Notice of Preparation (NOP) for an EIR was distributed to local Responsible and Trustee Agencies, the State Clearinghouse and other interested parties between May 24, 2004 and June 28, 2004. Various agencies and individuals provided written comments within the State-mandated 30-day public review period for the NOP. During the months of February, 2005 through April, 2005, the County of San Luis Obispo internally reviewed administrative draft copies of the Draft EIR.



Upon completion of this review, copies or notification of availability of the Draft EIR were forwarded to all Responsible/Trustee Agencies and interested groups and individuals. As was also the case for the Notice of Preparation, the Draft EIR was forwarded to the State Clearinghouse for distribution to and review by various involved State agencies. The State-mandated 45-day public review of the Draft EIR began on April 12, 2005 and ended on June 1, 2005. A Response to Comments package was prepared which presented all written comments received in response to the public review of the Draft Environmental Impact Report.

The contents of the Draft EIR, the Responses to Comments on the Draft EIR, the Mitigation Monitoring/Reporting Program, these Findings of Fact, the Staff Report and any other related attachments or additional materials comprise the Final Environmental Impact Report for the proposed Mission Gardens Estates project.

This Final EIR has been prepared for the County of San Luis Obispo in accordance with the California Environmental Quality Act (CEQA), as amended, and County Guidelines for the Implementation of CEQA. Pursuant to California Public Resources Code 21082.1, the County of San Luis Obispo has independently reviewed and analyzed the information contained in the Final Environmental Impact Report. The conclusions and discussions contained herein reflect the independent judgment of the County of San Luis Obispo as to those issues at the time of publication.

THE ENVIRONMENTAL IMPACT REPORT

An Initial Study for the Mission Gardens Estates project was prepared by the County of San Luis Obispo in January, 2003, which identified potential environmental impacts attributable to the proposed project. These potential impact areas include aesthetics; agricultural resources; air quality; biological resources; cultural resources; geology and soils; hazards/hazardous materials; noise; population and housing; public services (police protection, fire protection, schools, solid waste, energy and communications systems); recreation; transportation/circulation; wastewater; water and land use and planning. In addition, the State CEQA Guidelines require analysis of unavoidable adverse impacts, project alternatives, growth inducing impacts, cumulative impacts and provision of a Mitigation Monitoring/Reporting Program. As a result of the Initial Study, it was determined that the proposed project may have a significant effect on the environment and an Environmental Impact Report (EIR) was required.

The Final EIR analyzed both project and cumulative effects of potential environmental impacts noted above. The Final EIR developed and identified a variety of mitigation measures to minimize, reduce, avoid or compensate for the potential adverse effects of the proposed project.

The Final EIR discussed a number of potential alternatives to the proposed project, including the: 1) the No Project Alternative; 2) the Resource Avoidance Alternative A; 3) the Resource Avoidance Alternative B; 4) the Resource Avoidance Alternative C; 5) Alternate Land Uses and 6) Alternative Site Locations.

Public hearings have been held on the project proposal and its associated environmental impacts by the County of San Luis Obispo Planning Commission prior to the certification of the Final EIR.

The County of San Luis Obispo makes the following findings in adopting a Resolution certifying the Final EIR. Section 1 of these Findings contains the Statement of Overriding considerations. Section 2 discusses those potential environmental effects of the proposed project which have been mitigated to a level of insignificance. Section 3 discussesses the potential environmental effects of the proposed project which were determined not to be significant. Section 4 discusses the significant unavoidable environmental effects of the proposed project which cannot be feasibly mitigated to a level of insignificance. Section 5 discusses the growth-inducing impacts of the proposed project. Section 6 discusses the alternatives to the proposed project discussed in the Final EIR. Section 7 discusses the Mitigation Monitoring/Reporting Program for the proposed project. Section 8 contains the required Section 15091 and 15092 Findings. The findings set forth in each section are supported by substantial evidence in the administrative record of the proposed project. Exhibit A to this Findings package contains the Mitigation Monitoring Program for the proposed project.

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SECTION 1

STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects which will occur as a result of the proposed Mission Gardens Estates project. With the implementation of the mitigation measures discussed in the Final EIR, these effects can be mitigated to a level of insignificance except for project-related significant, unavoidable adverse impacts in the area of Cultural Resources as identified in Section 4 of these Findings. Section 15093 (a)(b) of the State CEQA Guidelines states that the County of San Luis Obispo, as Lead Agency, must "balance, as applicable, the economic, legal, social, technological or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project." If the benefits of a project outweigh its unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." When the Lead Agency approves a project which will result in significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the Lead Agency must state the specific reasons to support its action.

Having reduced the effects of the proposed project by adopting the conditions of approval and a program to monitor mitigation measures for certain project impacts (as discussed in Section 2 and 3 of these Findings) and having balanced the benefits of the proposed project against the proposed project's potential unavoidable adverse impacts (as noted in Section 4 of these Findings), the County of San Luis Obispo hereby determines that the specific economic, legal, social, technological or other benefits of the proposed project outweigh these significant unavoidable adverse impacts based on the following overriding considerations:

1. The proposed project provides residential land uses within an overall land use plan which cannot be accomplished on a parcel-by-parcel basis.
2. The proposed project provides a net increase of 59 residences which responds to the demand for housing in the San Miguel area and north San Luis Obispo County.
3. The proposed project is consistent with the land uses designated within the San Miguel Urban Area Design Plan which designates the entire project site for Residential Single Family uses.
4. The revised project design conforms to the 60 dwelling unit density limitation placed on the site by the County Land Use Ordinance.
5. The proposed project is in conformance with the regulations contained within the San Luis Obispo County Land Use Ordinance relative to the residential clustering requirements. The proposed 60-lot residential subdivision is clustered within 13 acres of the 50.61 acre project site in compliance with cluster subdivision criteria within the Land Use Ordinance. The developed portion of the proposed project is located west of and avoids the Flood Hazard combining designation.
6. The proposed project will provide approximately 31 acres of open space areas along the project boundaries which will provide an open space buffer between

developed portions of the site and the Salinas River, and will provide a public equestrian trail easement.

7. The proposed project provides a backbone infrastructure system and public facilities (including water, wastewater and utility systems) in an efficient and timely manner which support the proposed development of the subject property and the community of San Miguel.
8. The proposed project provides an on-site roadway system and required off-site roadway improvements that are consistent with County roadway design standards and provides safe and efficient access between the project site and off-site arterials.
9. The proposed project provides access in the form of an offer of dedication of access easements to the parcel under separate ownership located on the western site boundary.
10. The proposed project will provide the opportunity for continued historical and archaeological studies of the San Miguel Mission while also insuring protection and avoidance of known resources both within and adjacent to the site boundaries.
11. The proposed project will generate development fees and will indirectly generate an incremental increase in sales tax revenue to the County of San Luis Obispo.
12. The proposed project will generate increased property tax revenue to the County of San Luis Obispo.
13. The proposed project will school fees that will benefit the school districts serving the community of SanMiguel.



SECTION 2

POTENTIAL ENVIRONMENTAL IMPACTS WHICH HAVE BEEN MITIGATED TO A LEVEL OF INSIGNIFICANCE

All Final EIR mitigation measures (as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings) have been incorporated into the Conditions of Approval for the proposed Mission Gardens Estates project.

The County of San Luis Obispo has determined that these mitigation measures and conditions of approval will result in a substantial reduction of the following impacts which have been mitigated to a level of insignificance. The mitigation measures referred to below are contained within the Mitigation Monitoring Program which is attached as Exhibit A to these Findings.

A. Aesthetics

1. Impacts – Refer to Final EIR pages V-7 through V-9.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures A-1 through A-5 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – Construction and occupation of the proposed Mission Gardens Estates project will result in the permanent alteration in the nature and appearance of the project site for areas devoted to the proposed residential subdivision which will involve the construction of roads, utilities and structures. Development of the proposed project will result in the physical alteration of approximately 13 acres of the 50.61 acre site. The balance of the site will be left in its existing condition. The proposed structures will be contained within the 12.51 acre development area. Structures will vary in height between 18 and 20 feet. Building materials will include a combination of stucco and wood siding with composition shingle roofs.

Construction of the proposed Mission Gardens Estates project will result in short-term impacts to views of the project site during construction activities. Temporary construction impacts will result from grading activities and construction of proposed structures and roadways. Impacts to views of the area during project construction are considered to be less than significant due to their temporary nature.

The shielding of the site due to topography and vegetation will significantly reduce the visual scale and the extent of visibility of the proposed structures.



While visible in the background, the proposed structures appear to be visually compatible with immediately surrounding land uses. there is no obstruction or degradation of scenic views of the area or substantial alteration in the features visible from Mission Street or 11th Street. Given the minimal change in the overall viewscape as a result of project development, the proposed project will result in less than significant visual impacts to views from these three view locations.

The proposed Mission Gardens Estates project will have lighting within the buildings and along proposed roadways. As such, night lighting will be generated on the project site. Views from 11th Street as well as from adjacent properties will be impacted due to project-related light and glare.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant aesthetics impacts associated with the proposed project will be reduced to a level of insignificance.

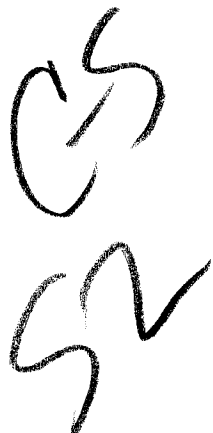
B. Agricultural Resources

1. Impacts – Refer to Final EIR pages V-11 through V-13.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures B-1 and B-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings —
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen certain significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – Development of the Mission Gardens Estates project will result in the permanent reduction in the amount of land potentially available for grazing or other agricultural activities. The proposed project will convert approximately 13 acres to developed uses involving a 60 lot residential subdivision with approximately 37.6 acres remaining within an open space lot and remainder parcels.

As no prime agricultural land will be converted to urban uses under the proposed project, impacts to prime soils will be less than significant.

Potential land use conflicts between proposed residential uses and adjacent agricultural operations include an increased risk of trespassing, property damage and increased security for the ranch operation. Practices associated with the intensive agricultural use on adjacent parcels such as tilling, noise from tractors, irrigating, spraying of chemicals and odors could generate Right-to-Farm conflicts between project residents and their off-site neighbors.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially



significant agricultural resources impacts associated with the proposed project will be reduced to a level of insignificance.

C. Air Quality

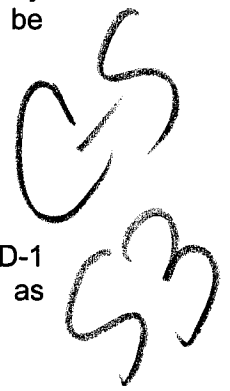
1. Impacts – Refer to Final EIR pages V-19 through V-24.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures C-1 through C-29 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence – Temporary impacts would result from project construction activities. Air pollutants would be emitted by construction equipment and fugitive dust would be generated during grading and site preparation. Reactive Organic Gases and Nitrogen Oxides emissions are projected to be well below the 187 lbs/day thresholds for these pollutants. PM10 emissions (2.67 tons per quarter) are projected to exceed the 2.5 tons/quarter APCD threshold for this pollutant.

Regional long-term air quality impacts will result from development of the proposed project. The main source of regional emissions generated by the proposed project is motor vehicles. Other emissions are generated by the combustion of natural gas for space and water heating for the buildings of the proposed project. Emissions are also generated by the use of natural gas and oil for the generation of electricity off-site. Pollutant emissions associated with the proposed project are projected to exceed Tier 1 thresholds for NOx. Project emissions are not projected to exceed Tier II thresholds for any air pollutants.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant air quality impacts associated with the proposed project will be reduced to a level of insignificance.

D. Biological Resources

1. Impacts – Refer to Final EIR pages V-30 through V-32.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures D-1 through D-17 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

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3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence - Project development will occur within an area that was recently graded and was subject to prior agricultural operations. These areas contain scattered non-native weedy species. The direct loss of these non-native weedy species or native grasses which would otherwise inhabit the site over approximately thirteen acres is considered to be an insignificant impact to the botanical resources of the area.

Project development will avoid the riparian vegetation found within the Salinas River channel due to the 31.77 acre open space parcel (Lot 61) proposed on the eastern portion of the project site.

Given the general lack of sensitive or special status species found in areas proposed for project development, no Federally or State-listed rare, threatened or endangered plant species would be directly removed or affected by project activities.

Development of the project will result in the loss of wildlife habitat and the potential loss of individuals of common wildlife species. These direct impacts will occur with ground disturbance, vegetation removal, noise and increased human presence during the development of the site as well as subsequent human use.

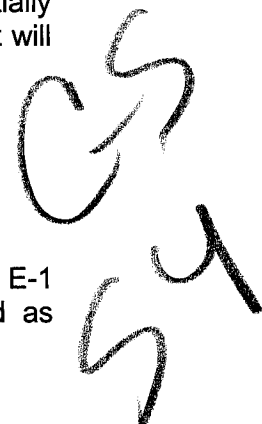
No Federally or State-listed rare, threatened or endangered animal species would be directly removed or affected by project activities. However, the project site is located within an area identified as habitat for the Federally endangered and State threatened San Joaquin kit fox.

Indirect impacts to native habitats may occur due to public access into areas immediately adjacent to the project site. The primary sensitive habitat adjacent to the project site is the Salinas River channel. Increased public access into this area will occur with project development due to the increased incidence of trespassing, vandalism and disturbance by people and their pets.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant biological resources impacts associated with the proposed project will be reduced to a level of insignificance.

E. Cultural Resources

1. Impacts – Refer to Final EIR pages V-49 through V-52.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures E-1 through E-12 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.



3. Findings –

- a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – The slope which runs along the western boundary of the Mission Garden Estates site is known to contain a wide variety of cultural material and at least one structural feature. Some of the artifacts, building materials and subsistence waste may have been displaced by the unauthorized grading of the neophyte quarters on the upper terrace west of the project site. Other artifacts may have been discarded there as a refuse area during the Mission period occupation of these dwellings. Concentrations of discards have also been observed on the lot to the north of the Diocese property, suggesting that intact and potentially significant deposits may be present at that location. The important information that would be lost by any process that displaces these cultural resources from their primary location and contextual association is considered to represent a significant adverse impact.

The brick and tile kiln built on a stone foundation on the slope below the Diocese property is considered to be one of the few surviving examples of Mission construction of its kind. Grading of the known feature and disturbance or relocation of portions of it would eliminate the opportunity to identify and interpret the feature. Such disturbance is also considered to represent a significant adverse impact.

The construction of erosion control barriers or devices on or impacting the Diocese property may result in disturbance of surviving remnants of the neophyte quarters, refuse deposits, etc.

Any further development within the parcels north or south of the Diocese property, including the provision of access roadways or utility trenches may potentially disturb known or unknown buried deposits within these lots.

It must be acknowledged that any grading or other disturbance of any buried deposits associated with the Native American community would be a significant effect. Any loss of integrity of cultural resources would be contrary to the values and concerns expressed by the Native American Salinan community.

Future occupation of the proposed project may result in the loss of historical artifacts, damage or destruction of cultural features and buried architectural elements through artifact collection and looting or through future project residents' future use or development of their properties. Among the common effects that come with the construction of residential housing near an archaeological site are the inadvertent disturbance of artifacts or their deliberate collection by relic hunters.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, certain potentially significant cultural resources impacts associated with the proposed project as noted above will be reduced to a level of insignificance.



F. Geology and Soils

1. Impacts – Refer to Final EIR pages V-58 through V-61.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures F-1 through F-8 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Development of the proposed Mission Gardens Estates project will result in the permanent alteration of the existing landform to accommodate the proposed uses. Project grading will primarily occur on approximately 13 acres in order to provide flat pads and excavation necessary for construction of the proposed roads, utilities, drainage facilities and structures.

In order to prepare the site for project construction, a total of 30,000 cubic yards of cut and fill is estimated to be required. Earthwork is estimated to balance on-site with equal amounts (15,000 cubic yards) of cut and fill.

Due to the presence of the Rinconada Fault Zone in close proximity to the project site, the potential for ground shaking due to a seismic event from this fault as well as from other faults in the area is considered high. It is unlikely that ground rupture would impact proposed buildings in this area; therefore, no adverse project impacts in this regard are anticipated.

Development of the proposed Mission Gardens Estates project will result in an increase in surface runoff due to the creation of impervious surfaces such as buildings, roadways, etc. Due to the relatively small area of impervious surfaces proposed (13 acres), storm water runoff rates will not be significantly increased by development of the proposed project.

The proposed project does not place any structures within the 100-year floodplain associated with the Salinas River to the east. According to the 100 Year Flood Analysis, building sites within the proposed project will not be inundated during a 100-year flood event.

Development of the proposed project will alter the composition of surface runoff by the grading of the sites surfaces, by the construction of impervious surfaces (streets, roofs, parking lots, etc.) and the irrigation of landscaped areas.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant geology and soils impacts associated with the proposed project will be reduced to a level of insignificance.



G. Hazards/Hazardous Materials

1. Impacts – Refer to Final EIR page V-64.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures G-1 and G-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – Although there is no evidence of hazardous materials on the Mission Gardens Estates site, two potential sources of hazards or hazardous waste may occur on the site. Prior agricultural activities may have utilized wells that are no longer used or easily observed. In addition, unauthorized dumping may have occurred.

The developed portion of the project site is located approximately 300 to 500 feet east of the existing Southern Pacific Railroad tracks. With the provision of 60 new homes and 172 new residents, there is an increased potential for unauthorized public access onto or across the Southern Pacific Railroad tracks. Without fencing or other suitable barrier, increased public access to the tracks presents an attraction to the public, particularly to children. Unauthorized public access across the tracks offers a more direct route to destinations to the west, such as Mission Street.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant hazards/hazardous materials impacts associated with the proposed project will be reduced to a level of insignificance.

H. Noise

1. Impacts – Refer to Final EIR pages V-67 through V-70.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures H-1 through H-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –

- a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.



4. Supportive Evidence – Construction noise represents a short-term impact on ambient noise levels. The primary source of construction noise is heavy equipment. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high levels. Grading will generate the highest levels of noise during construction.

Long-term noise impacts from the proposed Mission Gardens Estates project on land uses in the vicinity of the project will result from traffic noise increases. The addition of project traffic onto 11th Street, the primary access route for project traffic, is estimated to result in a maximum noise increase of 0.7 CNEL over existing noise conditions on this roadway. The proposed Mission Gardens Estates project will, therefore, not result in a substantial noise level increase at any sensitive receptors and therefore will not result in a significant noise impact.

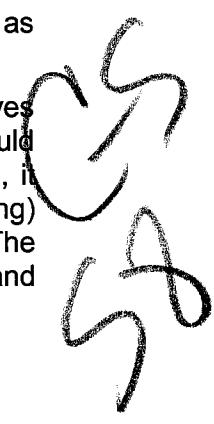
The project site is exposed to noise levels of approximately 47 CNEL. Given the distance (800 feet) to the nearest noise source, Mission Street and one-half mile to U.S. Highway 101, the proposed project will not be exposed to severe noise levels.

The adjacent Southern Pacific Railroad tracks will expose project residents to intermittent noise levels and vibration. Noise levels at the project site generated by these railroad tracks, with its current level of use, will not exceed 55 CNEL.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant noise impacts associated with the proposed project will be reduced to a level of insignificance.

I. Police Protection

1. Impacts – Refer to Final EIR pages V-74 through V-75.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measure JP-1 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – The proposed Mission Gardens Estates project involves the construction and occupation of a 60 lot residential subdivision which would generate approximately 172 new residents. With any increase in public use, it can be expected that activities will occur (such as vandalism or trespassing) which, in turn, may require Sheriff's Office response when reported. The proposed project would represent an incremental addition to the regional demand on the currently limited resources of the County Sheriff's Department.



With the incorporation of the mitigation measure as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant police protection impacts associated with the proposed project will be reduced to a level of insignificance.

J. Fire Protection

1. Impacts – Refer to Final EIR pages V-76 through V-77.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures JF-1 through JF-5 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence – The proposed Mission Gardens Estates project involves construction and occupation of a 60 lot residential subdivision which would generate approximately 172 new residents. Development of the proposed project will result in an incrementally increased demand for fire protection and emergency services. This increased demand may, in turn, contribute to the need for additional fire fighters, additional equipment, and/or improvements to existing facilities. The project site lies within an acceptable response time from the nearest fire station.

Primary access to the project site will be via 11th Street east of Mission Street to an easement road leading south to the subject property. The primary access roadway and on-site roadways will contain two travel lanes within a forty foot paved roadway section, a width sufficient to accommodate two-way travel for emergency vehicles entering the site while allowing other vehicles to depart the property. The project proposes to utilize an existing unpaved road at the southern site boundary as a secondary, emergency-only access. This access will be gated at the tract boundary and will be reconstructed to a 16-foot width with an all-weather base. This access will traverse the Southern Pacific Railroad tracks in order to reach Mission Street.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant fire protection impacts associated with the proposed project will be reduced to a level of insignificance.

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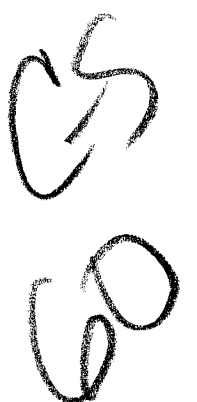
K. Schools

1. Impacts – Refer to Final EIR pages V-79 through V-80.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measure JS-1 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence – The proposed Mission Gardens Estates project is estimated to generate a total of 40 students based upon student generation factors provided by the San Miguel School District and the Paso Robles Joint Unified School Districts

With the incorporation of the mitigation measure as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant schools impacts associated with the proposed project will be reduced to a level of insignificance.

L. Solid Waste

1. Impacts – Refer to Final EIR pages V-81 through V-82.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures JW-1 and JW-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – The proposed Mission Gardens Estates project will generate increased amounts of solid waste thereby increasing service demands upon local solid waste haulers. Based upon solid waste generation factors provided by the National Solid Waste Association, the proposed project is



estimated to generate approximately 894.4 pounds of solid waste per day or 163.2 tons of solid waste annually. A portion of this total will be recycled.

The proposed project will also generate solid waste during construction. Construction wastes generally consist of lumber, roofing, building materials, concrete, debris, etc. Construction of 60 residences with an average of 2,500 square feet per dwelling unit is estimated to generate a total of approximately 1,200 tons of construction waste.

Development of the proposed project will, through generation of solid waste, incrementally shorten the lifespan of the Chicago Grade Landfill. The proposed project's estimated daily solid waste total represents a 0.09% increase in the maximum daily solid waste stream of the Chicago Grade Landfill.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant solid waste impacts associated with the proposed project will be reduced to a level of insignificance.

M. Energy

1. Impacts – Refer to Final EIR pages V-84 through V-85.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures JE-1 through JE-4 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence – The primary use of natural gas by the proposed project will be for combustion to provide space heating, water heating, cooking and other miscellaneous heating and air conditioning. Project development is estimated to consume an average of 399,900 cubic feet of natural gas per month. The Southern California Gas Company anticipates that sufficient natural gas supplies will be available to meet the natural gas service needs of the proposed project.

The proposed project will also generate the demand for electrical energy primarily for lighting, cooking, appliance use, refrigeration and heating. Project development is estimated to generate an electrical demand of 364,860 kilowatt hours per year. These estimated demands for electrical generating capacity fall within the anticipated service parameters of the Pacific Gas and Electric Company.

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Project development will result in the estimated consumption of 318 gallons of gasoline per day.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant energy impacts associated with the proposed project will be reduced to a level of insignificance.

N. Communications Systems

1. Impacts – Refer to Final EIR page V-87.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures JC-1 and JC-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
4. Supportive Evidence – Development of the proposed project will result in an incrementally increased demand upon the infrastructure and service requirements of SBC and Charter Communications. This additional demand falls within the service parameters of Pacific Bell and Charter Communications.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant communications systems impacts associated with the proposed project will be reduced to a level of insignificance.

O. Recreation

1. Impacts – Refer to Final EIR pages V-88 through V-89.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures K-1 through K-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

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4. Supportive Evidence – Development of the proposed Mission Gardens Estates project will result in the creation of an additional demand upon existing park and recreational facilities in the area. However, the addition of 172 new residents is not expected to generate any significant additional demand upon existing park facilities in the San Miguel area. Development of the proposed project will not result in impacts upon or the elimination of any significant recreational use of the project site which currently provides a passive open space function.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant recreation impacts associated with the proposed project will be reduced to a level of insignificance.

P. Transportation/Circulation

1. Impacts – Refer to Final EIR pages V-92 through V-94.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures L-1 through L-4 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – According to the project Traffic Analysis, project development is estimated to generate a total of 574 daily vehicle trips. The project will generate 45 morning peak hour vehicle trips and 61 evening peak hour vehicle trips. All of these vehicle trips will utilize 11th Street in order to gain access to Mission Street to the west. Fifteen percent of project traffic is estimated to go north on Mission Street from 11th Street, with 85 percent of project traffic headed to the south. Of these total trips, 20 morning peak hour trips and 42 evening peak hour trips are expected to utilize the Highway 101/10th Street interchange while five morning peak hour and ten evening peak hour trips will utilize the Highway 101/Mission Street interchange.

Within the existing plus project plus cumulative development traffic scenario, which is considered to represent the “worst case” or maximum probable impact scenario, the Mission Street/11th Street and the Highway 101 southbound on-ramp intersections are projected to operate at an acceptable Level of Service B while the Highway 101 northbound on-ramp at 10th Street is projected to operate at an acceptable Level of Service A.

According to the project traffic engineer, due to low traffic volumes after project development, traffic should not back up onto the railroad track which traverses 11th Street east of Mission Street.

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The project proposes to utilize an existing unpaved road at the southern site boundary as a secondary, emergency-only access. This access will be gated at the tract boundary and will traverse the railroad tracks in order to reach Mission Street.

The proposed Mission Gardens Estates project will not have a significant impact upon existing transit services. An incremental increase in transit use can be expected as a result of the proposed project but existing transit services are expected to accommodate any increases in transit demand. The closest transit stop is located at Mission Street and 14th Street, approximately one-half mile from the project site.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant transportation/circulation impacts associated with the proposed project will be reduced to a level of insignificance.

Q. Wastewater

1. Impacts – Refer to Final EIR pages V-96 through V-97.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures M-1 and M-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence – Development of the proposed Mission Gardens Estates project will result in the increased demand for wastewater treatment service. The proposed project will result in the generation of 12,000 gallons of wastewater per day.

Sewer service to the proposed project will be provided through a system of 8-inch sewer mains which will be located within the roadways of the proposed project, a sewage lift station located on the east side of the developed portion of the site and a sewer force main leading to the main project access road. This force main will extend to and connect into the existing 8-inch sewer main located in 11th Street. Sewage from the proposed project will flow via off-site transmission lines north to the existing San Miguel Community Services District Wastewater Reclamation Facility. The additional wastewater flows from the proposed project represent a 10.6% addition to the average daily flows to this facility and 6.0% of its design capacity.

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With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant wastewater impacts associated with the proposed project will be reduced to a level of insignificance.

R. Water

1. Impacts – Refer to Final EIR pages V-98 through V-99.
2. Mitigations – Refer to Conditions of Approval and Mitigation Measures N-1 through N-7 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these findings.
3. Findings –
 - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
 - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
4. Supportive Evidence - The proposed Mission Gardens Estates project will result in the increased daily demand for water supplies. Project-related construction activities will require the use of water for grading (dust control) and other construction-related activities. Use of potable water for construction purposes would result in a reduction of available water for the remaining water users in the area.

Development of the proposed project will result in the long-term demand for additional water supplies. The proposed project will require a total of 24,000 gallons per day or approximately 26.87 acre-feet per year

Potable water service to the proposed project will be provided through a system of 8-inch water lines which will be located within the roadways of the proposed project. An off-site water main will be extended north on the project access road to connect to the existing 8-inch water supply line in 11th Street.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant water impacts associated with the proposed project will be reduced to a level of insignificance.

S. Land Use and Planning

1. Impacts – Refer to Final EIR pages V-102 through V-104.



2. Mitigations – Refer to Conditions of Approval and Mitigation Measures 0-1 through 0-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence - Development of the proposed Mission Gardens Estates project will result in the transition of land uses from undeveloped, vacant land to the proposed 60 lot residential subdivision containing roads, utilities, drainage facilities and structures. This land use transition will occur on approximately 13 acres of the 50.61 acre site. Project development will occur within an area that was recently graded and was subject to prior grazing and agricultural operations.

Given the undeveloped nature of the project site and the diverse nature of uses in surrounding areas, the proposed project will not disrupt an established community or overall pattern of development in the San Miguel area.

The existing residence located at the northwest corner of the project site within a proposed remainder parcel raises a land use issue. This existing residence, in combination with the 60 proposed residential lots, results in a total provision of 61 dwelling units on the project site which exceeds the 60 dwelling unit density limitation placed on the site by the County Land Use Ordinance.

The project applicant will be required to insure compliance with the Subdivision Map Act requirements relative to creation of remainder parcels through the redesignation of one of the proposed remainder parcels as either a residential or open space lot

The proposed Vesting Tentative Tract 2527 creates a “landlocked” parcel, i.e. a legal parcel lacking either dedicated or physical access to a public roadway. The parcel located along the western project boundary is currently under the ownership of the Diocese of Monterey. This parcel is surrounded on three sides by Vesting Tentative Tract 2527 and on the west by the Southern Pacific Railroad tracks. With the proposed residential subdivision and an intervening downslope to the west, potential access to this parcel could only occur from the north and south.

With the incorporation of mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant land use and planning impacts associated with the proposed project will be reduced to a level of insignificance.

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SECTION 3

POTENTIAL ENVIRONMENTAL IMPACTS WHICH HAVE BEEN IDENTIFIED AS INSIGNIFICANT

Certain impacts were analyzed in the Final EIR which have been identified as insignificant. In certain cases, mitigation measures (as set forth in the Mitigation Monitoring Program) have been incorporated into the Conditions of Approval for the proposed Mission Gardens Estates project.

The County of San Luis Obispo has determined that the following impacts are insignificant.

A. Agricultural Resources

1. Impacts – Refer to Final EIR pages V-7 through V-9.
2. Mitigations – No additional mitigation measures are proposed.
3. Findings – Impacts related to the conversion of the project site to non-agricultural uses, the loss of prime agricultural soils and the creation of development pressures on adjacent agricultural lands are not considered to be significant.
4. Supportive Evidence – see Section 2.A of these Findings.

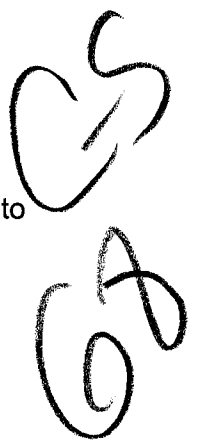
B. Air Quality

1. Impacts – Refer to Final EIR pages V-19 through V-24.
2. Mitigations – No additional mitigation measures are proposed.
3. Findings – Local, long-term air quality impacts upon areas immediately adjacent to the proposed project are not considered to be significant.
4. Supportive Evidence – See Section 2.C of these Findings.

C. Noise

1. Impacts – Refer to Final EIR pages V-67 through V-70.
2. Mitigations – No additional mitigation measures are proposed.
3. Findings – Long term off-site traffic-related noise impacts and impacts due to aircraft and railroad noise are not considered to be significant.
4. Supportive Evidence – See Section 2.H of these Findings

D. Population and Housing



1. Impacts – Refer to Final EIR pages V-72 through V-73.
2. Mitigations – No mitigation measures are proposed.
3. Findings – The additional population and housing impacts associated with the proposed project are not considered to represent a significant adverse impact.
5. Supportive Evidence – Development of the proposed Mission Gardens Estates project will result in the development of 60 dwelling units with the resultant population generation of 172 new residents. This population and housing generation represents a 10.7% increase over current (2004) County population and housing totals for San Miguel. This additional population will indirectly generate additional demand for utilities and services as well as the need for additional commercial and retail services in the area.

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SECTION 4

SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL IMPACTS WHICH CANNOT BE MITIGATED TO A LEVEL OF INSIGNIFICANCE

The County of San Luis Obispo has determined that certain environmental impacts cannot be feasibly mitigated to a level of insignificance although the Final EIR contains mitigation measures and conditions of approval to be imposed on the proposed project which will provide a substantial mitigation of these effects. Consequently, in accordance with Section 15093 of the State CEQA Guidelines, a Statement of Overriding Considerations has been prepared (see Section 1 of these Findings) to substantiate the County's decision to accept these unavoidable adverse environmental impacts because of the benefits afforded by the proposed project.

A. Cultural Resources

1. Impacts – Refer to Final EIR pages V-49 through V-50.
2. Mitigations – The direct loss of the historical integrity of the neophyte housing and adjacent areas due to the previously-conducted unauthorized grading cannot be mitigated to an insignificant level in spite of Mitigation Measures E-1 through E-3. This significant, unavoidable adverse impact will require adoption of a Statement of Overriding Considerations by the Lead Agency.
3. Findings –
 - a. Specific economic, social, legal, technical or other considerations make the alternatives identified in the Final Environmental Impact Report infeasible. However, conditions of approval and features incorporated into the proposed project will reduce, to the extent feasible, the adverse environmental effect.
4. Supportive Evidence – The project site and adjacent properties to the west were the subject of premature site work and improvements which occurred during the summer of 2003. These grading activities that occurred on the adjacent Diocese property unearthed the east perimeter wall, interior room partition foundations and hearths within the neophyte housing quadrangle found on that property. Specifically, this unauthorized grading affected 1,092 square meters, resulting in the destruction or disturbance of approximately 31 neophyte dwelling rooms, including foundations, fire hearths, floors and walls. In addition, approximately 2,306 square meters with refuse areas and at least one important feature were disturbed on the adjacent slope.

The slope separating the upper terrace from the lower plain was strewn with animal bone, Mission-period roof and floor tile fragments, stone artifacts and flakes, historic ceramics, ash and other cultural material. A brick and tile feature

identified as a kiln, located at the western edge of the Mission Gardens Estates site, was also disturbed and damaged.

Mission Gardens Estates land east of the neophyte housing quadrangle was also disturbed. The actual extent of disturbance or resource loss on the lower terrace is unknown, but limited investigation encountered at least two deposits.

Any intrusion or disturbance of the neophyte quarters at Mission San Miguel is considered to be a significant impact. Except for the small remnant of standing adobe along the northern wall, no evidence that could testify to either architecture or the life of the neophytes remains above the ground. Archeological information lost during the unauthorized grading includes structural remains, room interiors, hearths, "front yards," "rear yards," the central courtyard and all associated cultural materials or deposits. The resulting destruction of architectural elements, including adobe bricks, exterior and interior stone foundations, floors and door sills is considered to represent a significant loss.



SECTION 5

GROWTH-INDUCING IMPACTS OF THE PROPOSED PROJECT

The State CEQA Guidelines (Section 15126 (g)) require an EIR to discuss how a proposed project could directly or indirectly lead to economic, population or housing growth. A project may be growth-inducing if it removes obstacles or impediments to growth, taxes community service facilities or encourages other activities or sets precedents which cause significant environmental effects. The potential growth-inducing impacts of the proposed project are discussed below in terms of these criteria.

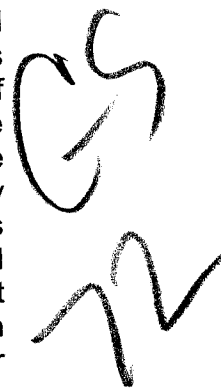
Economic, Population or Housing Growth

The proposed Mission Gardens Estates project will result in the development of 60 dwelling units with the resultant population generation of 172 new residents. This population estimate is based upon a factor of 2.86 persons per dwelling unit which reflects the current persons per household average for San Miguel. This population and housing generation represents a 10.7% increase over current (2004) population and housing totals of San Miguel. This additional population will indirectly generate additional demand for utilities and services as well as the need for additional commercial and retail services in the area.

Removal of an Impediment to Growth

In order to fully evaluate whether the proposed Mission Gardens Estates project results in the removal of an impediment to growth, the proposed project in relation to its surroundings must be considered. The Mission Gardens Estates project site is situated in an area characterized by single family residential development, commercial and institutional (Mission San Miguel) land uses adjacent to Mission Street, agricultural uses and vacant land. Areas surrounding the project site contain a mobilehome park and residential uses (north of the site), the Southern Pacific Railroad tracks, industrial and commercial uses along Mission Street and Mission San Miguel (west of the site), agricultural uses and vacant land (south of the site) and the Salinas River, vacant land and scattered residences (east and northeast of the site). Project approval could encourage development in agricultural areas south of the site and vacant areas to the west. Development of these adjacent areas would require amendments to the San Miguel Urban Area Design Plan and the County General Plan. This indirect impact upon adjacent lands is not considered to represent a significant impact.

The proposed project is expected to require the improvement of on-site roadways and infrastructure facilities to serve the developed project. All of these infrastructure facilities (roadways, water mains and utility connections) will emanate from 11th Street north of the project site. These infrastructure connections will be sized to serve only the proposed project and will not be oversized to serve other adjacent parcels. None of the required utility improvements will extend beyond the site boundaries or through any other properties nor are they currently anticipated to serve any other vacant properties adjacent to the project site. None of the proposed project infrastructure facilities will contribute to the inducement of growth or development in adjacent areas. Adjacent open space areas to the east are constrained for growth due to the 100-year floodplain associated with the Salinas River. This constraint further reduces the potential for



extension of roadways, utilities or developed uses into adjacent areas to the east and southeast of the project site.

Impact on Community Service Facilities

The proposed Mission Gardens Estates project is not expected to significantly impact public services or utilities (police and fire protection, schools, solidwaste, energy and communications systems), water service and wastewater treatment.

Precedent-Setting Effects

Precedent setting concerns are defined as the ability of a project to set an example of what can be achieved on parcels with similar land use designations and parcels of land situated in similar locations within the project area and with similar constraints. Parcels of land potentially susceptible to precedent-setting effects of the proposed project include open space areas to the east and south. The proposed project would convert 13 acres of vacant land to residential land uses. Project approval could increase pressure on the site's owners to convert the remainder parcel located along the western portion of the subject property, to residential land uses in the future.

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SECTION 6

FINDINGS REGARDING ALTERNATIVES

Alternatives to the proposed project described in the Final Environmental Impact Report were considered. The alternatives discussed in the Final EIR constitute a reasonable range of potential options necessary to permit a reasoned choice. The Final EIR identified the No Project Alternative, the Resource Avoidance Alternative A, the Resource Avoidance Alternative B and the Resource Avoidance Alternative C as “environmentally superior” to the recently amended project design but approves the proposed project with the Conditions of Approval and Final EIR mitigation measures which will provide a substantial mitigation of the potential environmental effects. Consequently, in accordance with Section 15093 of the State CEQA Guidelines, a Statement of Overriding Considerations has been prepared (See Section 1 of these Findings) to substantiate the County’s decision to reject the environmentally preferred alternatives because of the benefits afforded by the proposed project.

A. No Project Alternative

Description of Alternative: The No Project Alternative would retain the project site in its present condition and land use. The project site is currently vacant with the exception of one single family residence and other auxiliary structures. The project site is currently utilized for limited grazing activities.

Comparison of Effects: The No Project Alternative would eliminate all of the environmental effects of the proposed project identified in Sections 2 through 4 herein, including all significant unavoidable adverse impacts associated with the proposed project. It is therefore, considered an “environmentally superior” alternative.

Findings: After comparing the relative impacts and benefits of the proposed project and the No Project Alternative, the County of San Luis Obispo did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 2 and 3 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The No Project Alternative fails to meet several of the project objectives including: 1) provide single family residential land uses; 2) provide a clustered project design; 3) provide required roadway improvements and safe access and 4) provide an adequate infrastructure system. This Alternative meets the following project objective at a level which is significantly less than that provided by the proposed project: 1) maintain consistency with County land use plans. The No Project Alternative also eliminates the other benefits associated with the proposed project as listed in Section 1 of these Findings. For these reasons, the No Project Alternative was rejected.

B. Resource Avoidance Alternative A



Description of Alternative: Resource Avoidance Alternative A was developed in an effort to avoid impacts to the slope which runs along the western boundary of the Mission Garden Estates site which is known to contain a wide variety of cultural material and at least one structural feature. Some of the artifacts, building materials and subsistence waste may have been displaced by the unauthorized grading of the neophyte quarters on the upper terrace west of the project site. Other artifacts may have been discarded there as a refuse area during the Mission period occupation of these dwellings. The important information that would be lost by any process that displaces these cultural resources from their primary location and contextual association is considered to represent a significant adverse impact. The brick and tile kiln built on a stone foundation on the slope below the Diocese property is considered to be one of the few surviving examples of Mission construction of its kind. Grading of this feature and disturbance or relocation of portions of it would eliminate the opportunity to identify and interpret the feature. Such disturbance is also considered to represent a significant adverse impact.

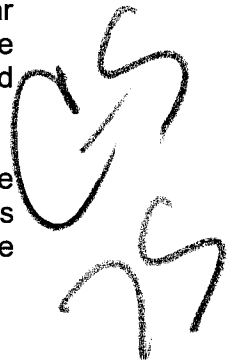
Resource Avoidance Alternative A creates a single residential lot out of the originally-proposed residential lots 13 and 14. This larger lot 13 will contain a single residence and a deed restriction to avoid the brick and tile kiln feature at this location. The remaining lot is relocated elsewhere within the currently-proposed 12.41 acre development area. As such, the total number of proposed residential lots remains unchanged. In addition, the upper portion of the slope that runs along the western boundary of the Mission Gardens Estates site, which is known to contain a wide variety of cultural material, will also be preserved within a cultural resources avoidance zone.

Comparison of Effects: The topography of the project site will be altered in order to prepare the site for the uses proposed within Resource Avoidance Alternative A. This Alternative involves an amount of developed area similar to the proposed project. Both this alternative and the proposed project are located in an area that possesses a relatively uniform topography and sheet flow drainage pattern. As such, the extent of grading and the associated impacts on the site landform, geologic conditions and site drainage with this Alternative is expected to be similar to those impacts associated with the proposed project.

Resource Avoidance Alternative A generates a number of vehicle trips identical to the proposed project and will utilize the same access via 11th Street to Mission Street. Impacts to existing (near-term) and future (cumulative) traffic levels associated with the Resource Avoidance Alternative A will be identical to those associated with the proposed project. Impacts related to site access and parking will also be similar between this Alternative and the proposed project. Air quality and noise impacts based upon project-related vehicular use are also expected to be similar.

Development of Resource Avoidance Alternative A is expected to result in similar impacts to biological resources as compared to the proposed project due to the similar extent of project grading and the similar amount of developed area and number of residential lots.

Resource Avoidance Alternative A will provide the same proposed uses within the 12.41 acre development area which is identical in size to the proposed project. This Alternative conforms to the County General Plan and applicable County land use ordinances and policies in a manner similar to the proposed project.



Development of the Resource Avoidance Alternative A will result in the generation of visual impacts similar to those associated with the proposed project due to the similar extent of project grading and the similar amount of developed area and number of residential lots. Resource Avoidance Alternative A will result in similar light and glare levels as compared to those associated with the proposed project.

Due to the similar size and scale of the Resource Avoidance Alternative A as compared to the proposed project, similar impacts to existing public services and utilities will result.

Resource Avoidance Alternative A reduces impacts related to previously-conducted, unauthorized grading activities in a manner similar to the proposed project. This Alternative mitigates impacts related to project grading and construction as well as impacts associated with project occupation in a manner which exceeds that associated with the proposed project. This Alternative is intended to protect the brick and tile kiln feature on the slope below the Diocese property through a deed restriction on a single residential lot. This Alternative also protects the upper portion of the slope that runs along the western boundary of the project site which is known to contain a wide variety of cultural material within a cultural resources avoidance zone. This Alternative satisfies Mitigation Measure E-4 which requires protection of these cultural resources at a level which exceeds that associated with the proposed project. While the placement of a deed restriction provides a mechanism for legal protection, the resource area will still be within the yards of private dwellings. There remains a likelihood of impacts as a result of long term impacts from property owner activities such as landscaping and minor land alterations. While the Resource Avoidance Alternative A does not eliminate the significant unavoidable adverse impacts to cultural resources due to prior grading activities, it reduces impacts to remaining cultural resources found on-site.

Findings: After comparing the relative impacts and benefits of the proposed project and the Resource Avoidance Alternative A, the County of San Luis Obispo did not select this Alternative. However, subsequent to the identification of this alternative, the applicant revised the project to incorporate some of the components of Alternative A including placement of the kiln location and the upper portion of the slope that runs along the western boundary of the Mission Gardens Estates site, which is known to contain a wide variety of cultural material, within a cultural resources avoidance zone through an open space easement. In addition, Conditions of Approval, monitoring mitigation measures and features incorporated into the proposed project, as described in Sections 2 and 3 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Resource Avoidance Alternative A meets the following project objectives in a manner similar to the proposed project: 1) provide single family residential land uses; 2) provide a clustered project design; 3) provide required roadway improvements and safe access; 4) maintain consistency with County land use plans and 5) provide an adequate infrastructure system. However, the recently amended project design also accomplishes the goal of cultural resource avoidance in a manner similar to Resource Avoidance Alternative A. For this reason, Resource Avoidance Alternative A was rejected.

C. Resource Avoidance Alternative B

Description of Alternative: Resource Avoidance Alternative B was developed in an effort to avoid impacts to the slope which runs along the western boundary of the Mission Garden Estates site which is known to contain a wide variety of cultural material and at least one structural feature, a brick and tile kiln built on a stone foundation on the slope below the Diocese property which is considered to be one of the few surviving examples of Mission construction of its kind.

Resource Avoidance Alternative B relocates both proposed residential lots 13 and 14 elsewhere within the currently-proposed 12.41 acre development area. As such, the total number of proposed residential lots remains unchanged. An open space lot is provided at the location of the brick and tile kiln feature which is located on the slope below the Diocese property. In addition, the upper portion of the slope that runs along the western boundary of the Mission Gardens Estates site, which is known to contain a wide variety of cultural material, will also be preserved with a cultural resources avoidance zone. Resource Avoidance Alternative B provides more buffer area between project development and these resources than Resource Avoidance Alternative A.

Comparison of Effects: The topography of the project site will be altered in order to prepare the site for the uses proposed within Resource Avoidance Alternative B. This Alternative involves an amount of developed area similar to the proposed project. Both this alternative and the proposed project are located in an area that possesses a relatively uniform topography and sheet flow drainage pattern. As such, the extent of grading and the associated impacts on the site landform, geologic conditions and site drainage with this Alternative is expected to be similar to those impacts associated with the proposed project.

Resource Avoidance Alternative B generates a number of vehicle trips identical to the proposed project and will utilize the same access via 11th Street to Mission Street. Impacts to existing (near-term) and future (cumulative) traffic levels associated with the Resource Avoidance Alternative B will be identical to those associated with the proposed project. Impacts related to site access and parking will also be similar between this Alternative and the proposed project. Air quality and noise impacts based upon project-related vehicular use are also expected to be similar.

Development of Resource Avoidance Alternative B is expected to result in similar impacts to biological resources as compared to the proposed project due to the similar extent of project grading and the similar amount of developed area and number of residential lots.

Resource Avoidance Alternative B will provide the same types of proposed uses within the 12.41 acre development area which is identical in size to the proposed project. This Alternative conforms to the County General Plan and applicable County land use ordinances and policies in a manner similar to the proposed project.

Development of the Resource Avoidance Alternative B will result in the generation of visual impacts similar to those associated with the proposed project due to the similar extent of project grading and the similar amount of developed area and number of residential lots. Resource Avoidance Alternative B will result in similar light and glare levels as compared to those associated with the proposed project.



Due to the similar size and scale of the Resource Avoidance Alternative B as compared to the proposed project, similar impacts to existing public services and utilities will result.

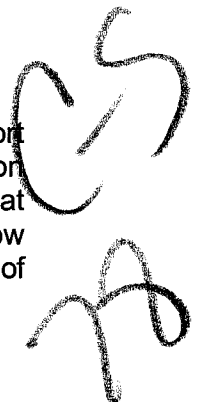
Resource Avoidance Alternative B reduces impacts related to previously-conducted, unauthorized grading activities in a manner similar to the proposed project. This Alternative mitigates impacts related to project grading and construction as well as impacts associated with project occupation in a manner which exceeds that associated with the proposed project. This Alternative is intended to protect the brick and tile kiln feature on the slope below the Diocese property through the provision of an open space lot at this location. This Alternative also protects the upper portion of the slope that runs along the western boundary of the project site which is known to contain a wide variety of cultural material within a cultural resources avoidance zone. This Alternative satisfies Mitigation Measure E-4 which requires protection of these cultural resources at a level which exceeds that associated with the proposed project. While the brick and tile kiln feature is protected with this Alternative, there is still potential for impacts to these resources due to project occupancy and inadvertent land alteration. While the Resource Avoidance Alternative B does not eliminate the significant unavoidable adverse impacts to cultural resources due to prior grading activities, it reduces impacts to remaining cultural resources found on-site.

Findings: After comparing the relative impacts and benefits of the proposed project and Resource Avoidance Alternative B, the County of San Luis Obispo did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 2 and 3 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Resource Avoidance Alternative B meets the following project objectives in a manner similar to the proposed project: 1) provide single family residential land uses; 2) provide a clustered project design; 3) provide required roadway improvements and safe access; 4) maintain consistency with County land use plans and 5) provide an adequate infrastructure system. However, the recently amended project design also accomplishes the goal of cultural resource avoidance in a manner similar to Resource Avoidance Alternative B. For this reason, Resource Avoidance Alternative B was rejected.

D. Resource Avoidance Alternative C

Description of Alternative: Resource Avoidance Alternative C was developed in an effort to avoid impacts to the slope which runs along the western boundary of the Mission Garden Estates site which is known to contain a wide variety of cultural material and at least one structural feature, a brick and tile kiln on a stone foundation on the slope below the Diocese property which is considered to be one of the few surviving examples of Mission construction of its kind.

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Resource Avoidance Alternative C provides a reconfigured roadway system within the area proposed for residential development. An on-site local roadway is located immediately adjacent to the slope that runs along the western site boundary. Seven residential lots are relocated elsewhere within the currently-proposed 12.41 acre development area. Six residential lots are lost within this roadway reconfiguration. As such, this Alternative contains 54 residential lots, a reduction of six lots from the originally proposed total of 60 units. This Alternative utilizes a roadway to provide buffer area for the upper portion of the slope that runs along the western boundary of the Mission Gardens Estates site, which is known to contain a wide variety of cultural materials and the brick and tile kiln feature, both which will be preserved with this Alternative. This Alternative provides the greatest amount of buffer area between project development and these resources as compared to Resource Avoidance Alternatives A and B.

Comparison of Effects: The topography of the project site will be altered in order to prepare the site for the uses proposed within Resource Avoidance Alternative C. This Alternative involves an amount of developed area similar to the proposed project. Both this Alternative and the proposed project are located in an area that possesses a relatively uniform topography and sheet flow drainage pattern. As such, the extent of grading and the associated impacts on the site landform, geologic conditions and site drainage with this Alternative is expected to be similar to those impacts associated with the proposed project.

Resource Avoidance Alternative C generates approximately 10% fewer a number vehicle trips as compared to the proposed project but will utilize the same access via 11th Street to Mission Street. Impacts to existing (near-term) and future (cumulative) traffic levels associated with the Resource Avoidance Alternative C will be incrementally reduced by 10% as compared to those associated with the proposed project. Impacts related to site access and parking will be similar between this Alternative and the proposed project. Air quality and noise impacts based upon project-related vehicular use are also expected to be reduced by approximately 10% as compared to the proposed project.

Development of Resource Avoidance Alternative C is expected to result in similar impacts to biological resources as compared to the proposed project due to the similar extent of project grading and the similar amount of developed area.

Resource Avoidance Alternative C will provide the same type of proposed uses within the 12.41 acre development area as the proposed project. However, this Alternative contains six fewer residential lots which resolves potential impacts related to the proposed project's conformity with the 60 dwelling unit density limitation placed on the site by the County Land Use Ordinance. As noted in Section V.O. Land Use and Planning, the existing on-site residence may be removed or a single lot eliminated from the currently proposed 60-lot subdivision in order to not exceed this limitation. This potential conflict is eliminated with this Alternative.

Development of the Resource Avoidance Alternative C will result in reduced generation of visual impacts as compared to those associated with the proposed project due to the reduced number of residential lots. Resource Avoidance Alternative C will result in incrementally reduced light and glare levels as compared to those associated with the proposed project.



Due to the reduced number of residential lots within Resource Avoidance Alternative C as compared to the proposed project, incrementally reduced impacts to existing public services and utilities will result.

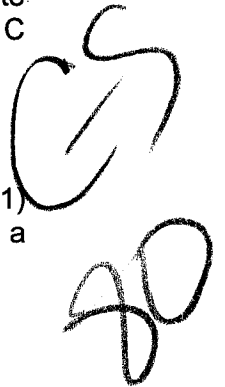
Resource Avoidance Alternative C reduces impacts related to previously-conducted, unauthorized grading activities in a manner similar to the proposed project. This Alternative mitigates impacts related to project grading and construction as well as impacts associated with project occupation in a manner which exceeds that associated with the proposed project. This Alternative provides a roadway buffer to insure preservation of the brick and tile kiln feature on the slope below the Diocese property as well as the upper portion of the slope that runs along the western boundary of the project site which is known to contain a wide variety of cultural material which will be within a cultural resources avoidance zone. Resource Avoidance Alternative C provides more buffer area than Resource Avoidance Alternatives A and B. This Alternative eliminates the potential for inadvertent impacts to these resources due to project occupancy. This Alternative satisfies Mitigation Measure E-4 which requires protection of these cultural resources at a level which exceeds that associated with the proposed project. While the Resource Avoidance Alternative C does not eliminate the significant unavoidable adverse impacts to cultural resources due to prior grading activities, it reduces impacts to remaining cultural resources found on-site.

Findings: After comparing the relative impacts and benefits of the proposed project and Resource Avoidance Alternative C, the County of San Luis Obispo did not select this Alternative. However, subsequent to the identification of this alternative, the applicant revised the project to incorporate some of the components of Alternative C including placement of the kiln location and the upper portion of the slope that runs along the western boundary of the Mission Gardens Estates site, which is known to contain a wide variety of cultural material, within a single parcel and protecting it through a cultural resources avoidance zone through an open space easement. In addition, Conditions of Approval, monitoring mitigation measures and features incorporated into the proposed project, as described in Sections 2 and 3 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Resource Avoidance Alternative C meets the following project objectives in a manner similar to the proposed project: 1) provide a clustered project design; 2) provide required roadway improvements and safe access; 3) maintain consistency with County land use plans and 4) provide an adequate infrastructure system. This Alternative meets the following objective at a level which is less than that provided by the proposed project: 1) provide single family residential land uses. However, the recently amended project design also accomplishes the goal of cultural resource avoidance in a manner similar to Resource Avoidance Alternative C. For this reason, Resource Avoidance Alternative C was rejected.

E. Alternate Land Uses

Description of Alternative: Alternate Land Uses considered in the Final EIR include: 1) commercial land uses; 2) industrial land uses or 3) institutional land uses such as a school, library, museum or church.



Comparison of Effects: The topography of the project site will be altered to prepare the site for the Alternate Land Uses noted above. The amount of developed area and extent of grading will vary significantly among the range of alternate land uses depending upon the nature of the land uses proposed. The impacts on the site landform, geologic conditions and site drainage is likely to be similar to the proposed project in the case of the institutional land uses noted above or greater than those associated with the proposed project in the case of commercial or industrial land uses.

The number of automobile trips generated by the Alternate Land Uses noted above will vary significantly. Traffic impacts as well as associated noise and air quality impacts would likely be less than the proposed project for the institutional land uses noted above. Commercial or industrial land uses would likely have higher traffic volumes on weekdays with lower traffic volumes on weekends as compared to the proposed project. Traffic impacts as well as noise and air quality impacts would differ from the proposed project in a similar manner.

Development of the Alternate Land Uses noted above will likely result in similar impacts to biological resources as compared to the proposed project.

The Alternate Land Uses noted above vary significantly in character and function as compared to the proposed project. None of the alternative land uses noted above conform to the County General Plan which designates the Mission Gardens Estates site for future development with sixty residential lots. Development of any of the alternate land uses would, therefore, require a General Plan Amendment.

Development of the Alternate Land Uses noted above will result in visual impacts and light and glare impacts that will vary significantly depending upon the nature and extent of the uses proposed. The institutional land uses noted above would likely have similar visual impacts as compared to the proposed project. Commercial and industrial land uses would likely have increased visual impacts as compared to the proposed project.

Development of the Alternate Land Uses noted above will result in impacts to public services and utilities that will vary significantly depending upon the nature and extent of the uses proposed. The institutional land uses noted above would likely have similar or reduced public services and utilities impacts as compared to the proposed project. Commercial and industrial land uses would have increased public services and utilities demands as compared to the proposed project.

Development of the Alternate Land Uses noted above will result in impacts to cultural resources that will vary significantly depending upon the nature of the land uses proposed and its detailed design. Land uses that provide an adequate buffer to areas containing known cultural resources, those being the Diocese property and the upper portion of the slope that runs along the western boundary of the project site will reduce potential impacts to these resources. While these Alternative Land Uses do not eliminate the significant unavoidable adverse impacts to cultural resources due to prior grading activities, they may reduce impacts to remaining cultural resources found on-site.

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Findings: Conditions of Approval and monitored mitigation measures, as described in Sections 2 and 3 of these Findings, will reduce the environmental effects of the proposed project.

Facts: The Alternate Land Uses noted above will fail to meet the following project objectives; 1) provide single family residential land uses; and 2) maintain consistently with County land use plans. These Alternate Land Uses can meet the following project objectives in a manner less than or similar to the proposed project depending upon the project design: 1) provide a clustered project design; 2) provide required roadway improvements and safe access and 3) provide an adequate infrastructure system. The Alternate Land Uses will result in significant cultural resources impacts similar to the proposed project. For these reasons, the Alternative Land Uses were rejected

F. Alternative Project Sites

Based upon a review of other cumulative projects in the San Miguel area, four other residential projects totaling approximately 60 dwelling units or residential lots and two apartment buildings are currently proposed within the San Miguel area of unincorporated San Luis Obispo County. In addition, a total of six residential projects totaling no less than 120 residential dwelling units were recently approved in the area.

Facts: Several locations throughout the San Miguel area were evaluated in the Final EIR for their feasibility as alternate project sites. The analysis of these alternative locations was constrained due to the lack of parcels within San Miguel of similar size which were not already developed or under the ownership of institutions unwilling to develop their properties. For this reason, the alternative project sites were rejected.



SECTION 7

FINDINGS REGARDING MITIGATION MONITORING PROGRAM

Section 21081.6 of the Public Resources Code requires that when a public agency is making the findings required by State CEQA Guidelines Section 15091(a) (1), codified as Section 21081(a) of the Public Resources Code, the public agency shall adopt a reporting or monitoring program for the changes to the proposed project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment.

The County of San Luis Obispo hereby finds and accepts that the Mitigation Monitoring Program, which is attached as Exhibit A to these Findings, meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of measures intended to mitigate potential environmental impacts.

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SECTION 8

SECTION 15091 AND 15092 FINDINGS

Based on the foregoing findings and the information contained in the record, the County of San Luis Obispo has made one of more of the following findings with respect to the significant effects of the proposed project:

- a. Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the Final Environmental Impact Report.
- b. Some changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.
- c. Specific economic, social, legal, technical or other considerations make the mitigation measures or alternatives identified in the Final Environmental Impact Report infeasible.

Based on the foregoing findings and the information contained in the record, and as conditioned by the foregoing findings:

- a. All significant effects on the environment due to the proposed project have been eliminated or substantially lessened where feasible as discussed in Sections 2 and 3 of these Findings.
- b. The benefits of the proposed project set forth in the foregoing Statement of Overriding Considerations, as noted in Section 1 of these Findings, outweigh any remaining significant effects of the project on the environment found to be unavoidable.



IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION MODIFYING THE DECISION OF THE PLANNING
COMMISSION AND CONDITIONALLY APPROVING
THE APPLICATION OF MISSION GARDEN ESTATES, INC.
FOR CONDITIONAL USE PERMIT S030011U AND
FOR A VESTING TENTATIVE TRACT MAP FOR TRACT 2527

The following resolution is now offered and read:

WHEREAS, on November 10, 2005, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and conditionally approved the application of Mission Garden Estates, Inc. for Conditional Use Permit S030011U and for a vesting tentative tract map for Tract 2527; and

WHEREAS, Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. have appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 21 and Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 7, 2006, and the matter was continued to and determination and decision was made on April 4, 2006; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

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WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be upheld in part and the decision of the Planning Commission should be modified subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A, Exhibit C, and Exhibit E attached hereto and incorporated by reference herein as though set forth in full.
3. That the Final Environmental Impact Report prepared for this project is hereby certified as complete and adequate and having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the Board of Supervisors certifies that it has reviewed and considered the information contained in the Final Environmental Impact Report together with all comments received during the public review process prior to approving the project.
5. That the Board of Supervisors certifies that the Final Environmental Impact Report reflects the County's independent judgment and analysis.
6. That the appeal filed by Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. is hereby upheld in part and the decision of the Planning Commission is modified and that the application of Mission Garden Estates, Inc. for Conditional Use Permit S030011U is hereby approved subject to the conditions of approval set forth in Exhibit D attached hereto and incorporated by reference herein as though set forth in full.
7. That the appeal filed by Gordon Marshall and John Belsher on behalf of Mission Garden Estates, Inc. is hereby upheld in part and the decision of the Planning Commission is modified and that the application of Mission Garden Estates, Inc. for a vesting tentative tract map for Tract 2527 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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Upon motion of Supervisor _____, seconded by
Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted.

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

Dated: March 20, 2006

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____, County Clerk and ex-officio Clerk
of the Board of Supervisors, in and for the County of San Luis Obispo, State of
California, do hereby certify the foregoing to be a full, true and correct copy of an order
made by the Board of Supervisors, as the same appears spread upon their minute
book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of
_____, 20 ____.

County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: _____
Deputy Clerk.

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